

Reserve



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# ILLINOIS REGISTER

III-Chicago Kent

## Rules of Governmental Agencies

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## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, pars. 1001 et seq., as amended).

## REGISTER PUBLICATION SCHEDULE 1988

Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:
Dec. 16, 1987	Dec. 23, 1987	1	Jan. 4, 1988	June 28, 1988	July 5, 1988	29	July 15, 1988
Dec. 23, 1987	Dec. 30, 1987	2	Jan. 8, 1988	July 5, 1988	July 12, 1988	30	July 22, 1988
Dec. 30, 1987	Jan. 5, 1988	3	Jan. 15, 1988	July 12, 1988	July 19, 1988	31	July 29, 1988
Jan. 5, 1988	Jan. 12, 1988	4	Jan. 22, 1988	July 19, 1988	July 26, 1988	32	Aug. 5, 1988
Jan. 12, 1988	Jan. 19, 1988	5	Jan. 29, 1988	July 26, 1988	Aug. 2, 1988	33	Aug. 12, 1988
Jan. 19, 1988	Jan. 26, 1988	6	Feb. 5, 1988	Aug. 2, 1988	Aug. 9, 1988	34	Aug. 19, 1988
Jan. 26, 1988	Feb. 2, 1988	7	Feb. 16, 1988 (Tues.)	Aug. 9, 1988	Aug. 16, 1988	35	Aug. 26, 1988
Feb. 2, 1988	Feb. 9, 1988	8	Feb. 19, 1988	Aug. 16, 1988	Aug. 23, 1988	36	Sept. 2, 1988
Feb. 9, 1988	Feb. 16, 1988	9	Feb. 26, 1988	Aug. 23, 1988	Aug. 30, 1988	37	Sept. 9, 1988
Feb. 16, 1988	Feb. 23, 1988	10	Mar. 4, 1988	Aug. 30, 1988	Sept. 6, 1988	38	Sept. 16, 1988
Feb. 23, 1988	Mar. 1, 1988	11	Mar. 11, 1988	Sept. 6, 1988	Sept. 13, 1988	39	Sept. 23, 1988
Mar. 1, 1988	Mar. 8, 1988	12	Mar. 18, 1988	Sept. 13, 1988	Sept. 20, 1988	40	Sept. 30, 1988
Mar. 8, 1988	Mar. 15, 1988	13	Mar. 25, 1988	Sept. 20, 1988	Sept. 27, 1988	41	Oct. 7, 1988
Mar. 15, 1988	Mar. 22, 1988	14	Apr. 1, 1988	Sept. 27, 1988	Oct. 4, 1988	42	Oct. 14, 1988
Mar. 22, 1988	Mar. 29, 1988	15	Apr. 8, 1988	Oct. 4, 1988	Oct. 11, 1988	43	Oct. 21, 1988
Mar. 29, 1988	Apr. 5, 1988	16	Apr. 15, 1988	Oct. 11, 1988	Oct. 18, 1988	44	Oct. 28, 1988
Apr. 5, 1988	Apr. 12, 1988	17	Apr. 22, 1988	Oct. 18, 1988	Oct. 25, 1988	45	Nov. 4, 1988
Apr. 12, 1988	Apr. 19, 1988	18	Apr. 29, 1988	Oct. 25, 1988	Nov. 1, 1988	46	Nov. 14, 1988 (Mon.)
Apr. 19, 1988	Apr. 26, 1988	19	May 6, 1988	Nov. 1, 1988	Nov. 8, 1988	47	Nov. 18, 1988
Apr. 26, 1988	May 3, 1988	20	May 13, 1988	Nov. 8, 1988	Nov. 15, 1988	48	Nov. 28, 1988 (Mon.)
May 3, 1988	May 10, 1988	21	May 20, 1988	Nov. 15, 1988	Nov. 22, 1988	49	Dec. 2, 1988
May 10, 1988	May 17, 1988	22	May 27, 1988	Nov. 22, 1988	Nov. 29, 1988	50	Dec. 9, 1988
May 17, 1988	May 24, 1988	23	June 3, 1988	Nov. 29, 1988	Dec. 6, 1988	51	Dec. 16, 1988
May 24, 1988	May 31, 1988	24	June 10, 1988	Dec. 6, 1988	Dec. 13, 1988	52	Dec. 23, 1988
May 31, 1988	June 7, 1988	25	June 17, 1988	Dec. 13, 1988	Dec. 20, 1988	53	Dec. 30, 1988
June 7, 1988	June 14, 1988	26	June 24, 1988	Dec. 20, 1988	Dec. 27, 1988	1	Jan. 6, 1989
June 14, 1988	June 21, 1988	27	July 1, 1988	Dec. 27, 1988	Jan. 3, 1989	2	Jan. 13, 1989
June 21, 1988	June 28, 1988	28	July 8, 1988				

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).







## NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: Franchise Disclosure Act
- 2) Code Citation: 14 Ill. Adm. Code 200
- 3) Section Numbers:  
200.114  
200.201  
Appendix A  
Illustration L  
Proposed Action:  
New Section  
Amendment  
Amendment
- 4) Statutory Authority: Implementing and Authorized by the Franchise Disclosure Act of 1987; P.A. 85-551, effective January 1, 1988.
- 5) A Complete Description of the Subjects and Issues Involved:  
These Amendments reflect changes necessitated by the Franchise Disclosure Act of 1987. Section 200.114 is a new Section which interprets Section 11 of the Act. This Section clarifies that if the same material change is consistently made in a franchise agreement, an Amendment to the registration documents must be filed.  
Section 200.201 corrects the statutory reference from Section 4 to Section 5.  
Appendix A Illustration L corrects a typographical error that was made when the rule was published earlier this year.
- 6) Will these proposed Amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Are there any other proposed amendments pending on this part?  
No

10) Statement of statewide policy objectives: Local governments are not franchisors or franchisees and are not affected by the Franchise Disclosure Act of 1988.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Attorney General will accept written comments within 45 days after the first publication of notice. Comments should be submitted to Christina M. Sanderson, Office of the Illinois Attorney

## NOTICE OF PROPOSED AMENDMENTS

General, 500 South Second Street, Springfield, Illinois 62706.

12) Initial regulatory flexibility analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: November 29, 1988.
- B) Types of small businesses affected: The Attorney General does not believe that the proposed amendments will affect small businesses, however because it is possible that some franchisors may meet the statutory definition of a small business, the proposed rules have been submitted to Department of Commerce and Community Affairs.
- C) Reporting bookkeeping or other procedures required for compliance: Franchisors who sell franchises continue to be required to obtain an original registration as defined in Section 200.600. Every year thereafter, a franchisor must submit an annual report to maintain its registration. The items comprising the Annual Report in Section 200.603 are similar to those items previously required to be submitted for a renewal application. These requirements are less burdensome than those currently required.
- D) Types of professional skills necessary for compliance: The financial statements which must be submitted for registration must be prepared by a Certified Public Accountant. This has always been required by the previous Rules and Regulations.

The full text of the proposed amendments begins on the next page:



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## NOTICE OF PROPOSED AMENDMENTS

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TITLE 14: COMMERCE  
SUBTITLE A: REGULATION OF BUSINESS  
CHAPTER II: ATTORNEY GENERAL

## PART 200

## FRANCHISE DISCLOSURE ACT

## SUBPART A: DEFINITIONS

Section	Act
200.100	Disclosure Statement
200.101	Marketing Plan or System
200.102	Substantially Associated
200.103	Franchise Fee
200.104	Absence of Fee Exclusion
200.105	Bona Fide Wholesale and Retail Price
200.106	Established Market
200.107	Indirect Franchise Fee
200.108	Consideration
200.109	Material Change
200.110	Administrator
200.111	Correspondent
200.112	Negotiated Change
200.113	
200.114	

## SUBPART B: OPINIONS, EXEMPTIONS

Section	Interpretive Opinions and No Action Letters
200.200	Order of Exemption
200.201	Exemptions by Rule
200.202	

## SUBPART C: ADVERTISING

Section	Deceptive Practices
200.300	Statements of Profitability
200.301	Opinions of Counsel
200.302	Inconsistencies with Disclosure Statement
200.303	Dollar Statements on Sales or Income
200.304	Filing Requirements
200.305	

## SUBPART D: HEARINGS

Section	Preamble
200.400	Party
200.401	

200.402	Hearing Officer
200.403	Office
200.404	Hearing Requests
200.405	Notice of Hearing
200.406	Requirements Relating to Continuances
200.407	Rules of Evidence in Hearings
200.408	Record of Proceedings
200.409	Record of Hearing
200.410	Duties of Hearing Officer
200.411	Final Administrative Decision

SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS,  
ESCROW, GUARANTY, SURETY BOND

Section	Assurance of Financial Ability to Fulfill Obligations
200.500	Escrow of Funds
200.501	Release of Escrowed Funds
200.502	Guarantee of Performance
200.503	Performance of Surety Bond
200.504	Certificate of Deposit
200.505	Release of Certificate of Deposit
200.506	Deferral of Franchise Fee
200.507	
200.508	

## SUBPART F: REGISTRATION REQUIREMENTS

Section	Original Registration
200.600	Notification of Registration
200.601	Annual Report
200.602	Amendment Application
200.603	Final Circular Submission
200.604	Multiple Filings
200.605	Public Examination and Photocopying of Disclosure Statements
200.606	
200.607	

SUBPART G: AREA FRANCHISE AND SUBFRANCHISE REGISTRATION  
REQUIREMENTS-RESPONSIBILITIES FOR FILING

Section	Number of Applications
200.701	Responsibility for Filing the Application
200.702	Time for Filing the Application (Repealed)
200.703	



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## NOTICE OF ADOPTED AMENDMENTS

**SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION**

Section  
200.800

Failure to Diligently Prosecute Application

**SUBPART I: REGISTRATION OF FRANCHISE BROKERS**

Section  
200.900  
200.901

Documents to File  
Notice of Broker Registration

**APPENDIX A FRANCHISE REGISTRATION FORMS**

ILLUSTRATION A Uniform Franchise Registration Application  
Page  
ILLUSTRATION B Supplemental Information  
ILLUSTRATION C Salesman Disclosure  
ILLUSTRATION D Uniform Consent to Service of Process  
ILLUSTRATION E Corporate Acknowledgment  
ILLUSTRATION F Individual or Partnership Acknowledgment  
ILLUSTRATION G Certification Page  
ILLUSTRATION H Consent of Accountant  
ILLUSTRATION K Acknowledgment of Receipt (Suggested Format)  
ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular  
ILLUSTRATION M Joint Venture Agreement & Acknowledgment  
ILLUSTRATION N Limited Partnership Acknowledgment

**APPENDIX B Franchise Broker Registration Forms**

ILLUSTRATION A Franchise Broker Registration Application  
Page  
ILLUSTRATION B Broker Authorization  
ILLUSTRATION C Franchise Broker Surety Bond

**APPENDIX C Escrow Forms**

ILLUSTRATION A Escrow Agreement  
ILLUSTRATION B Franchisor's Petition for Release of Escrowed Funds  
ILLUSTRATION C Franchisee's Petition for Release of Escrowed Funds

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**APPENDIX D GUARANTY FORMS**

ILLUSTRATION A Guaranty of Performance  
ILLUSTRATION B Corporate Resolution  
ILLUSTRATION C Secretary's Certificate

**APPENDIX E Surety Bond****APPENDIX F CERTIFICATE OF DEPOSIT FORMS**

ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit  
ILLUSTRATION B Franchisee's Petition for Release of Certificate of Deposit

**AUTHORITY:** Implementing and authorized by the Franchise Disclosure Act of 1987, P.A. 85-551, effective January 1, 1988.

**SOURCE:** Filed April 25, 1977, effective May 5, 1977, by the Office of the Secretary of State; transferred to the Attorney General by P.A. 80-31, effective February 28, 1978; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1367, effective January 13, 1984; emergency amendment at 12 Ill. Reg. 1124, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 9424, effective May 18, 1988; amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_.

**Section 200.114 Negotiated Change**

As stated in Section 11 of the Act, an Amendment is not required when changes in the franchise agreement are made pursuant to negotiations between the franchisor and franchisee. However, if the same change is consistently made in additional consecutive franchise sales and it is a material change, it is considered to be a permanent change in the franchise agreement and an Amendment reflecting the change must be filed.  
(Source: Added at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_.)

**Section 200.201 Order of Exemption**

a) Pursuant to Section 9 of the Act the Administrator may by Order grant exemptions from the registration and disclosure requirements of the Act. The Administrator will consider whether to issue such an Order upon submission of the following:

- 1) A cover letter describing the basis for the exemption by reference to this Section and to Section 9 of the Act;



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- 2) A description and history of the applicant, the franchise fees and initial investment, and the proposed number of franchise sales in Illinois within the ensuing twelve months;
- 3) A description of the applicant's litigation history as stated in Item 3 of the U.F.O.C. which is attached as Appendix A, Illustration L;
- 4) A description of any bankruptcy petition filed by or against the franchisor, its officers, directors or predecessors within the last fifteen years;
- 5) A copy of the franchise agreement;
- 6) Copies of all promotional materials;
- 7) A list of all sales and advertisements in Illinois since January 1, 1974;
- 8) A list of administrative agencies which have issued or denied exemptions or opinions and copies of the exemptions or opinions;
- 9) A statement of the number of company owned and franchised units in the United States and in Illinois;
- 10) A statement of the number of franchises the franchisor intends to sell in Illinois in the following one year;
- 11) A Federal Trade Commission prospectus or a Uniform Franchise Offering Circular if required by 16 CFR 436 as of 1983;
- 12) A certification of facts.
  - b) Exemption requests will be granted only when in the public interest. An exemption is considered in the public interest:
    - 1) If the franchisor intends to sell only one or two franchises in Illinois in the ensuing twelve months; and
    - 2) If the litigation and bankruptcy history described in Section 200.201(a) above is not materially

## ATTORNEY GENERAL

## NOTICE OF PROPOSED AMENDMENTS

- adverse to the interest of prospective franchisees; and
- 3) If the franchisor agrees to provide the franchisee with a Federal Trade Commission prospectus, if required by 16 CFR 436, as of 1983, within the time period required by the Federal Trade Commission; and
  - 4) If the franchisor obtains a letter from the prospective franchisee's attorney, after issuance of the exemption but within the time period described in Section 45(2) of the Act; stating that he has explained the Act to his client, and the client does not object to issuance of the exemption, and forwards the letter to the Administrator. Prior to procurement of this letter, but after issuance of the exemption, the franchisor may solicit franchisees but may not have a contract signed or require a prospective franchisee or subfranchisor to pay consideration. (Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular**

Cover Page: The outside front cover of the offering circular shall contain the following information:

1. The title in boldface type: **FRANCHISE OFFERING CIRCULAR FOR PROSPECTIVE FRANCHISEES REQUIRED BY THE STATE OF (name of state).**
2. The name, type of business organization, principal business address and telephone number of the franchisor.
3. If different that in 2, above, the name, principal business address and telephone number of the subfranchisor or franchise broker offering in this state the herein described franchise.
4. A sample of the primary business trademark, logotype, trade name, or commercial label or symbol used by the franchisor for marketing its products or services and under which the franchisee will conduct its business. (Place in upper left-hand corner of the cover page.)
5. A brief description of the franchise to be offered.



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6. A summary of Items 5 and 7 of the offering circular, to wit: Franchisee's Initial Franchise Fee or Other Payment and Franchisee's Initial Investment, respectively.
7. Effective Date: (Leave blank until notified of effectiveness by state regulatory authority.)
8. The following statement in boldface type:

**THIS OFFERING CIRCULAR IS PROVIDED FOR YOUR OWN PROTECTION AND CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THIS OFFERING CIRCULAR AND ALL CONTRACTS AND AGREEMENTS SHOULD BE READ CAREFULLY IN THEIR ENTIRETY FOR AN UNDERSTANDING OF ALL RIGHTS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.**

**A FEDERAL TRADE COMMISSION RULE MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE WITHOUT FIRST PROVIDING THIS OFFERING CIRCULAR TO THE PROSPECTIVE FRANCHISEE AT THE EARLIER OF (1) THE FIRST PERSONAL MEETING; OR (2) TEN BUSINESS DAYS BEFORE THE SIGNING OF ANY FRANCHISE OR RELATED AGREEMENT; OR (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT. THE PROSPECTIVE FRANCHISEE MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS PRIOR TO THE SIGNING OF THE FRANCHISE AGREEMENT.**

**IF THIS OFFERING CIRCULAR IS NOT DELIVERED ON TIME, OR IF IT CONTAINS A FALSE, INCOMPLETE, INACCURATE OR MISLEADING STATEMENT, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND TO THE ILLINOIS ATTORNEY GENERAL'S OFFICE, 500 SOUTH SECOND STREET, SPRINGFIELD, ILLINOIS 62706, WHICH ADMINISTERS AND ENFORCES THE ILLINOIS FRANCHISE DISCLOSURE ACT.**

9. The name and address of the franchisor's registered agent in this state authorized to receive service of process.
10. The name and address of the subfranchisor's or franchise broker's registered agent in this state authorized to receive service of process.

Table of Contents: Include a table of contents based on the requirements of this offering circular.

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## NOTICE OF PROPOSED AMENDMENTS

**BODY OF OFFERING CIRCULAR:** The offering circular shall contain the following information clearly and concisely stated in narrative form:

1. **THE FRANCHISOR AND ANY PREDECESSORS:** Set forth in summary form: (The disclosure regarding predecessors need only cover the 15 year period immediately preceding the close of franchisor's most recent fiscal year.)

- A. The name of the franchisor and any predecessors thereto.
- B. The name under which the franchisor is currently doing or intends to do business.
- C. The franchisor's principal business address and the business address or addresses of any predecessors thereto.
- D. The business form of the franchisor whether corporate, partnership, or otherwise.
- E. A description of the franchisor's business and the franchises to be offered in this state.
- F. The prior business experience of the franchisor and any predecessors thereto including:
  - (1) The length of time the franchisor has conducted a business of the type to be operated by the franchisee;
  - (2) The length of time each predecessor conducted a business of the type to be operated by the franchisee;
  - (3) The length of time the franchisor has offered franchises for such business;
  - (4) The length of time the predecessor offered franchises for such business;
  - (5) Whether the franchisor has offered franchises in other lines of business including:
    - (a) a description of such other lines of business;
    - (b) the number of franchises sold in each other line of business;



NOTICE OF PROPOSED AMENDMENTS

- (c) the length of time the franchisor has offered each such franchise; and
- (6) Whether each predecessor offered franchises in other lines of business, including:
- (a) a description of such other lines of business;
- (b) the number of franchises sold in each other line of business; and
- (c) the length of time each predecessor offered each such franchise.

2. IDENTITY AND BUSINESS EXPERIENCE OF PERSONS AFFILIATED WITH THE FRANCHISOR; FRANCHISE BROKERS: List by name and position held the directors, trustees and/or general partners, as the case may be, the principal officers (including the chief executive and chief operating officer, financial, franchise marketing, training and service officers) and other executives or subfranchisors who will have management responsibility in connection with the operation of the franchisor's business relating to the franchises offered by this offering circular and all franchise brokers. With regard to each person listed, state his principal occupation and employers during the past five years.

3. LITIGATION: State whether the franchisor, any person or franchise broker identified in 2. above:

- A. Has any administrative, criminal or material civil action (or a significant number of civil actions irrespective of materiality) pending against him/alleging a violation of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations. If so, set forth the name of the person, the court or other forum, nature, and current status of any such pending action. Franchisor may include a summary opinion of counsel as to any such action, but only if a consent to use of such summary opinion is included as part of this offering circular.
- B. Has during the 10 year period immediately preceding the date of the offering circular been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable in a civil action by final judgment or been

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the subject of a material complaint or other legal proceeding if such felony, civil action, complaint or other legal proceeding involved violation of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations. If so, set forth the name of the person convicted, the court and date of conviction or person against whom judgment was entered, penalty or damages assessed in connection therewith and/or terms of settlement.

C. Is subject to any currently effective injunctive or restrictive order or decree relating to the franchise or under any federal, state or Canadian franchise, securities, antitrust, trade regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency. If so, set forth the name of the person so subject, the public agency and court, a summary of the allegations or facts found by the agency or court and the date, nature, terms and conditions of the order or decree.

4. BANKRUPTCY: State whether the franchisor or any predecessor, officer or general partner of the franchisor has during the 15 year period immediately preceding the date of the offering circular been adjudged bankrupt or reorganized due to insolvency or was a principal officer of any company or a general partner in any partnership that was adjudged bankrupt or reorganized due to insolvency during or within 1 year after the period that such officer or general partner of the franchisor held such position in such company or partnership, or whether any such bankruptcy or reorganization proceeding has been commenced. If so, set forth the name of the person or company adjudged bankrupt or reorganized or named in any such proceeding and the date thereof and any material facts or circumstances.

5. FRANCHISEE'S INITIAL FRANCHISE FEE OR OTHER INITIAL PAYMENT: Describe in detail the following:

- A. The initial franchise fee or other initial payment for the franchise, if any, charged upon the signing of the franchise agreement, and whether payable in lump sum or installments. Set forth the manner in which the franchisor will use or apply such franchise fee or initial payment. State whether such fee or payment is refundable, and if so, under what conditions.



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- B. If an identical initial franchise fee or other initial payment is not charged in connection with each franchise agreement, state the method or formula by which such fee or payment is determined.

6. **OTHER FEES:** Describe in detail other recurring or isolated fees or payments, including but not limited to royalties, service fees, training fees, lease payments and advertising fees and charges that the franchisee is required to pay the franchisor or persons affiliated with the franchisor or which the franchisor or such affiliated person imposes or collects in whole or in part on behalf of a third party. Include, if applicable, the formula used to compute such other fees and payments. State whether any such fee or payment is refundable, and if so, under what conditions.

7. **FRANCHISEE'S INITIAL INVESTMENT:** Describe in detail the following expenditures (which may be estimated or described by a low-high range, if not known exactly), stating for each to whom the payments are to be made, when such payments are to be determined, whether any payment is refundable, and if so, under what conditions and, if any part of the franchisee's initial investment in the franchise will or may be financed, an estimate of the loan repayments, including interest:

- A. Real property, whether or not financed by contract, installment, purchase or lease. If neither estimable nor describable by a low-high range, describe the variable requirements, such as property, location and building size which make the real property expenditure neither estimable nor describable by a low-high range.
- B. Equipment, fixtures, other fixed assets, construction, remodeling, leasehold improvements and decorating costs, whether or not financed by contract, installment purchases, lease or otherwise.
- C. Inventory required to commence operation.
- D. Security deposits, other prepared expenses and working capital required to commence operation.
- E. Any other payments which the franchisee will be required to make in order to commence operations.

NOTE: The following statement shall be inserted in the offering circular at this point:

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THERE ARE NO OTHER DIRECT OR INDIRECT PAYMENTS IN CONJUNCTION WITH THE PURCHASE OF THE FRANCHISE.

8. **OBLIGATIONS OF FRANCHISEE TO PURCHASE OR LEASE FROM**

**DESIGNATED SOURCES:** State any obligations of the franchisee or subfranchisor, whether arising by terms of the franchise agreement or other device or practice, to purchase or lease from the franchisor or his designees, goods, services, supplies, fixtures, equipment, inventory or real estate relating to the establishment or operation of the franchise business. Regarding such obligations, state the following:

- A. The goods, services, supplies, fixtures, equipment, inventory or real estate required to be purchased or leased from the franchisor or his designees.
- B. Whether, and if so, the precise basis by which, the franchisor, its parent or persons affiliated with the franchisor will or may derive income based on or as a result of any such required purchases or leases.
- C. To the extent known or estimable by the franchisor, the magnitude of such required purchases and leases in relation to all purchases and leases by the franchisee of goods and services which the franchisee will make or enter into (1) in the establishment and (2) in the operation of the franchise business.

9. **OBLIGATIONS OF FRANCHISEE TO PURCHASE OR LEASE IN ACCORDANCE**

**WITH SPECIFICATIONS OR FROM APPROVED SUPPLIERS:** State any obligations of the franchisee or subfranchisor, whether arising by terms of the franchise agreement or other device or practice, to purchase or lease in accordance with specifications issued by the franchisor, or from suppliers approved by the franchisor, goods, services, supplies, fixtures, equipment, inventory or real estate relating to the establishment or operation of the franchise business. Regarding such obligations, state the following:

- A. The goods, services, supplies, fixtures, equipment, inventory or real estate required to be purchased or leased in accordance with specifications or from suppliers approved by the franchisor.
- B. The manner in which the franchisor issues and modifies specifications or grants and revokes approval to suppliers.



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- C. Whether, and for what categories of goods and services, the franchisor or persons affiliated with the franchisor are approved suppliers or the only approved suppliers.
- D. Whether, and if so, the precise basis by which, the franchisor, its parent or persons affiliated with the franchisor may derive income from purchases made from it or from other approved suppliers, if this is the case.
10. FINANCING ARRANGEMENTS: State the terms and conditions of any financing arrangements offered directly or indirectly by the franchisor, its agent or affiliated company, including:
- A. A description of any waiver of defenses or similar provisions in any note, contract or other instrument to be executed by the franchisee or subfranchisor.
- B. A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party, in whole or in part, any note, contract or other instrument executed by the franchisee or subfranchisor.
- C. A description of any payments received by the franchisor from any person for the placement of financing with such person.

## 11. OBLIGATIONS OF THE FRANCHISOR, OTHER SUPERVISION, ASSISTANCE OR SERVICES: Where applicable, describe the following:

- A. The obligations to be met by the franchisor prior to the opening of the franchise business, citing by section and page the provisions of the franchise or related agreement requiring performance.
- B. Other supervision, assistance or services to be provided by the franchisor prior to the opening of the franchise business although franchisor is not bound by the franchise or any related agreement to provide the same. As part of this disclosure franchisor must disclose that he is not so bound.
- C. The obligations to be met by the franchisor during the operation of the franchise business, including, without limitation, the assistance to the franchisee in the operation of his business. Cite by section and page the provisions of the franchise or related agreement requiring performance.

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- D. Other supervision, assistance or services to be provided by the franchisor during the operation of the franchise business although franchisor is not bound by the franchise or any related agreement to provide the same. As part of this disclosure franchisor must disclose that he is not so bound.
- E. The methods used by the franchisor to select the location for the franchisee's business.
- F. The typical length of time between the signing of the franchise agreement or the first payment of any consideration for the franchise and the opening of the franchisee's business.
- G. The training program of the franchisor, including:
- (1) The location, duration and content of the training program;
  - (2) When the training program is to be conducted;
  - (3) The experience that the instructors have had with the franchisor;
  - (4) Any charges to be made to the franchisee and the extent to which the franchisee will be responsible for travel and living expenses of the person(s) who enroll in the training program;
  - (5) If the training program is not mandatory, the percentage of new franchisees that enrolled in the training program during the 12 months immediately preceding the date of the offering circular; and
  - (6) Whether any additional training programs and/or refresher courses are available to the franchisee and whether the franchisee will be required to attend the same.
12. EXCLUSIVE AREA OR TERRITORY: Describe any exclusive area or territory granted the franchisee and with respect to such area or territory state whether:
- A. The franchisor has established or may establish a company-owned outlet using the franchisor's trade name or trademark.



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- B. The franchisor has established or may establish a company-owned outlet using the franchisor's trade name or trademark.
- C. The franchisor or its parent or affiliate has established or may establish other franchises or company-owned outlets selling or leasing similar products or services under a different trade name or trademark.
- D. Continuation of the franchisee's area or territorial exclusivity is dependent upon achievement of a certain sales volume, market penetration or other contingency and under what circumstances the franchisee's area or territory may be altered.
13. TRADEMARKS, SERVICE MARKS, TRADE NAMES, LOGOTYPES, AND COMMERCIAL SYMBOLS: Describe any trademarks, service marks, trade names, logotypes or other commercial symbols to be license to the franchisee including the following:
- A. Whether the trademark, service mark, trade name, logotype or other commercial symbol is registered with the United States Patent Office and, if so, for each such registration state the registration date and number and whether or not the registration is on the principal or supplemental register.
- B. Whether the trademark, service mark, trade name, logotype and other commercial symbol are registered in this state or the state in which the franchise business is to be located and the dates of such registrations.
- C. A description of any presently effective determination of the Patent Office, the trademark administrator of this state or any court, any pending interference, opposition or cancellation proceeding and any pending material litigation involving such trademarks, service marks, trade names, logotypes or other commercial symbols and which is relevant to their use in this state or the state in which the franchise business is to be located.
- D. A description of any agreements currently in effect which significantly limit the rights of the franchisor to use or license the use of such trademarks, service marks, trade names, logotypes or other commercial symbols in any manner material to the franchise.

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- E. Whether the franchisor is obligated by the franchise agreement or otherwise to protect any or all rights which the franchisee has to use such trademarks, service marks, trade names, logotypes or other commercial symbols and to protect the franchisee against claims of infringement or unfair competition with respect to the same.
- F. Whether there are any infringing uses actually known to the franchisor which could materially affect the franchisee's use of such trademarks, service marks, trade names, logotypes or other commercial symbols in this state or state in which the franchise business is to be located.
14. PATENTS AND COPYRIGHTS: If the franchisor owns any rights in or to any patents or copyrights which are material to the franchise, describe such patents and copyrights, their relationship to the franchise and the terms and conditions under which the franchisee may use them, including their duration, whether the franchisor can and intends to renew any copyrights, and, to the extent relevant, the information required by Section 13 above with respect to such patents and copyrights.
15. OBLIGATION OF THE FRANCHISEE TO PARTICIPATE IN THE ACTUAL OPERATION FOR THE FRANCHISE BUSINESS: State fully the obligation of the franchisee or subfranchisor, whether arising by terms of the franchise agreement or other device or practice, to participate personally in the direct operation of the franchise business or whether the franchisor recommends participation in the same.
16. RESTRICTIONS ON GOODS AND SERVICES OFFERED BY FRANCHISEE: State any restriction or condition imposed by the franchisor, whether by terms of the franchise agreement or by other device or practice of the franchisor, whereby the franchisee is restricted as to the goods or services he may offer for sale, or limited in the customers to whom he may sell such goods or services.
17. RENEWAL, TERMINATION, REPURCHASE, MODIFICATION AND ASSIGNMENT OF THE FRANCHISE AGREEMENT AND RELATED INFORMATION: With respect to the franchise and any related agreements state the following:
- A. The term and whether such term is affected by any agreement (including leases or subleases) other than the one from which such term arises.



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- B. The conditions under which the franchisee may renew or extend.
- C. The conditions under which the franchisor may refuse to renew or extend.
- D. The conditions under which the franchisee may terminate.
- E. The conditions under which the franchisor may terminate.
- F. The obligations (including lease or sublease obligations) of the franchisee after termination of the franchise by the franchisor and the obligations of the franchisee including lease or sublease obligations) after termination of the franchise by the franchisee or the expiration of the franchise.
- G. The franchisee's interest upon termination or refusal to renew or extend the franchise by the franchisor or by the franchisee.
- H. The conditions under which the franchisor may repurchase, whether by right of first refusal or at the option of the franchisor. If the franchisor has the option to repurchase the franchise, state whether there will be an independent appraisal of the franchise, whether the repurchase price will be determined by a predetermined formula and whether there will be recognition of goodwill or other intangibles associated therewith in the repurchase price to be given the franchisee.
- I. The conditions under which the franchisee or its owners may sell or assign all or an interest in the ownership of the franchise or of the franchisee or in the assets of the franchise business.
- J. The conditions under which the franchisor may sell or assign in whole or in part.
- K. The conditions under which the franchisee may modify.
- L. The conditions under which the franchisor may modify.
- M. The rights of the franchisee's heirs or personal representative upon the death or incapacity of the franchisee.
- N. The provisions of any covenant not to compete.

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## 18. ARRANGEMENTS WITH PUBLIC FIGURES: State the following:

- A. Any compensation or other benefit given or promised to a public figure arising, in whole or in part, from:
- (1) the use of the public figure in the name or symbol of the franchise, or
  - (2) the endorsement or recommendation of the franchise by the public figure in advertisements.
- B. Any right the franchisee may have to use the name of a public figure in his promotional efforts or advertising and any charges to be made to the franchisee in connection with such usage.
- C. The extent to which such public figure is involved in the actual management or control of the franchisor.
- D. The total investment of the public figure in the franchise operation.

## 19. REPRESENTATIONS REGARDING EARNINGS CAPABILITY:

- A. Any earnings claims made in connection with the offer of a franchise must be included in full in the offering circular and must have a reasonable basis at the time it is made. If no earnings claim is made, in accordance with the Guidelines for the Preparation of the Uniform Franchise Offering Circular (1987, with no later amendments or editions), Item 19 of the offering circular shall contain the following negative disclosure: prescribed in the instruction
- The franchisor does not elect to make any representations regarding earnings capability to prospective franchisees.

- B. Any earnings claim shall include a description of its factual basis and the material assumptions underlying its preparation and presentation.

## 20. INFORMATION REGARDING FRANCHISES OF THE FRANCHISOR: State the following as of the close of the franchisor's most recent fiscal year:

- A. The total number of franchises, exclusive of company owned or operated distribution outlets, of a type substantially similar to those offered herein and of



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- that number, the number of such franchises which were operational as of the date of this offering circular.
- B. The number of franchises in this state, exclusive of company owned or operated distribution outlets, of a type substantially similar to those offered herein and of that number, the number of such franchises which were operational as of the date of this offering circular.
- C. The total number of franchises substantially similar to those offered herein for which a business is not yet operational although a franchise agreement has been signed.
- D. The number of franchises in this state substantially similar to those offered herein for which a business is not yet operational although a franchise agreement has been signed.
- E. The names, addresses and telephone numbers of all franchises under franchise agreement with the franchisor or its subfranchisor which are located in the state where the proposed franchise is to be located. To the extent that there are fewer than 10 such franchises located in said state, the list shall include at least the 10 such franchises which are most proximate to the location of the proposed franchise; and if fewer than 10 such franchises exist, the list shall identify all such franchises and include a statement to that effect.
- In lieu of the above disclosure, the franchisor may attach to the offering circular a list of the names, address and telephone numbers of all its franchisees under franchise agreements with the franchisor or its subfranchisors.
- F. An estimate of the total number of franchises to be sold or granted during the one year period following the date of the offering circular.
- G. An estimate of the number of franchises to be sold or granted in this state during the one year period following the date of the offering circular.
- H. State the number of franchises in each of the following categories which within the three-year period immediately preceding the close of franchisor's most recent fiscal year have:

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- (1) been cancelled or terminated by the franchisor for:
- (a) failure to comply with quality control standards; and
  - (b) other reasons;
- (2) not been renewed by the franchisor;
- (3) been reacquired through purchase by the franchisor;
- (4) been otherwise reacquired by the franchisor.
21. FINANCIAL STATEMENTS: Financial statements shall be prepared in accordance with generally accepted accounting principles. Such financial statements shall be audited by an independent certified public accountant or, if permitted by the franchise law of a particular state, an independent public accountant. Unaudited statements may be used for interim periods.

- A. The financial statements required to be filed by a franchisor shall include a balance sheet as of the date within 90 days prior to the date of the application and profit and loss statements for each of the three fiscal years preceding the date of the balance sheet and for the period, if any, between the close of the last of such fiscal years and the date of the balance sheet. The balance sheet as of a date within 90 days prior to the date of the application need not be audited. However, if this balance sheet is not audited, there shall be filed in addition an audited balance sheet as of the end of the franchisor's last fiscal year unless such last fiscal year ended within 90 days of the date of the application in which case there shall be filed an audited balance sheet as of the end of the franchisor's next preceding fiscal year. The profit and loss statement shall be audited up to the date of the last audited balance sheet filed, if any.
- B. Controlling company statements: Where state law permits, in lieu of the disclosure required by Item 21.A., complete financial statements of a company controlling the franchisor may be filed, but only if the unaudited financial statements of the franchisor are filed and the controlling company absolutely and unconditionally guarantees to assume the duties and obligations of the franchisor under the franchise agreement should the franchisor become unable to perform its duties and obligations.



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## C. Consolidated and separate statements:

- (1) Where a franchisor owns, directly or beneficially, a controlling financial interest in any other corporation, the financial statements required to be filed should normally reflect on a consolidated basis the financial condition of the franchisor and each of its subsidiaries.
- (2) A separate financial statement will normally be required for each substantial franchisor or subfranchisor related entity.
- (3) A company controlling 80% or more of a franchisor shall normally be required to file its financial statements.
- (4) Consolidated and separate financial statements shall be prepared in accordance with generally accepted accounting principles.

22. **CONTRACTS:** Attach a copy of all franchise and other contracts or agreements proposed for use or in use of this state, including, without limitation, all lease agreements, option agreements, and purchase agreements.

23. **ACKNOWLEDGMENT OR RECEIPT BY PROSPECTIVE FRANCHISEE:** The last page of each offering circular shall contain a detachable document acknowledging receipt of the offering circular by the prospective franchisee.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_\_\_)

## BOARD OF GOVERNORS OF STATE COLLEGES AND UNIVERSITIES

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- 1) Heading of the Part: Procurement from Minority and Female Owned Business Enterprises.

- 2) Code Citation: 44 Ill. Adm. Code 531

- 3) Section Number: Proposed Action:

531.10	New Section
531.20	New Section
531.30	New Section
531.40	New Section
531.50	New Section
531.60	New Section
531.70	New Section
531.80	New Section
531.90	New Section
531.100	New Section
531.110	New Section
531.120	New Section
531.130	New Section
531.140	New Section
531.150	New Section

- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 127, par. 132.600 et seq.

- 5) A Complete Description of the Subjects and Issues Involved: These rules: a) establish a goal of awarding to minority and female owned businesses at least 10% of the dollar amount of State contracts executed by the Board of Governors of State Colleges and Universities; b) establish procedures to be followed in attaining the goal; c) identify the types of contracts and expenditures which are not subject to these procedures and are not to be used in computing the dollar amount of the goal; d) authorize the Vice Chancellor for Administration and Fiscal Affairs and Administrative Vice Presidents to create sheltered markets for minority and female business enterprises by setting aside some contracts and making them available only to minority and female owned businesses; e) also authorize the Vice Chancellor and Vice Presidents to withdraw contracts from the sheltered market if necessary to avoid payment of unreasonable prices; f) establish procedures regarding the certification and temporary certification of firms as minority and female business enterprises; and g) establish penalties for violation of these rules and the Minority and Female Business Enterprise Act.



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- 6) Will these proposed rules replace emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These rules help implement the Minority and Female Business Enterprise Act which establishes a goal of awarding to minority and female owned businesses at least 10% of the total dollar amount of State contracts and authorizes the establishment of sheltered markets for minority and female owned businesses.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons who desire to comment on this proposed rulemaking may submit their comments in writing no later than 30 days after publication of this Notice to:

Dr. William H. Lienemann  
Vice Chancellor for Administration  
and Fiscal Affairs  
Board of Governors of State Colleges  
and Universities  
2040 Hill Meadows Drive, Suite B  
Springfield, Illinois 62702

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 9, 1988

B) Types of small businesses affected: These rules will affect a wide variety of small businesses which seek to enter into State contracts with the Board of Governors.

C) Reporting, bookkeeping or other procedures required for compliance: Simple forms and procedures for acceptance of a firm as a minority or female owned business; simple procedures to locate

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subcontractors who are minority or female owned businesses.

D) Types of professional skills necessary for compliance: None

The full text of the Proposed Rules begins on the next page:



NOTICE OF PROPOSED RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS AND  
PROPERTY MANAGEMENT

SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER III: BOARD OF GOVERNORS OF STATE  
COLLEGES AND UNIVERSITIES

PART 531

PROCUREMENT FROM MINORITY AND FEMALE  
OWNED BUSINESS ENTERPRISES

Section	Purpose
531.10	Definitions
531.20	Goal
531.30	Contracts and Expenditures Subject to Act
531.40	Council Review of Contract Categories
531.50	Council Review of Specific Contracts
531.60	Liaison to the Council
531.70	Minority and Female Status
531.80	Sheltered Market
531.90	Subcontracting
531.100	Certification and Temporary Certification
531.110	of Minority and Female Owned Business
531.120	Nonassignability and Change of Status
531.130	Penalty to Vendor
531.140	Report of Violation
531.150	Annual Report

AUTHORITY: Implementing and authorized by the Minority and Female Business Enterprise Act (Ill. Rev. Stat. 1987, ch. 127, par. 132.600 et seq.).

SOURCE: Adopted at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 531.10 Purpose

The Minority and Female Business Enterprise Act (Ill. Rev. Stat. 1987, ch. 127, par. 132.600 et seq.) establishes a goal of awarding to minority and female owned businesses at least 10% of the total dollar amount of State contracts, authorizes the establishment of sheltered markets for minority and female owned business, creates the Minority and Female Business Enterprise Council to help implement the Act, and requires the governing boards of State universities to adopt rules applicable to the State universities. The Board of Governors of State Colleges and Universities shall make procurements from minority and female business enterprises in accordance with the rules contained in this Part.

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Section 531.20 Definitions

- a) "Act" shall mean the Minority and Female Business Enterprise Act, as amended.
- b) "Bid" shall mean an offer to contract with the Board.
- c) "Bidder" shall mean any person who submits a bid.
- d) "Board" shall mean the Board of Governors of State Colleges and Universities, a public corporation of the State of Illinois.
- e) "Chancellor" shall mean the Board's Chancellor, provided that with respect to purchases by a University, the University's President shall be authorized to perform the functions delegated herein to the Chancellor.
- f) "Council" shall mean the Minority and Female Business Enterprise Council created by the Act.
- g) "Person" shall mean any individual, firm, partnership, corporation, association, or other entity.
- h) "University" shall mean Chicago State University, Eastern Illinois University, Governors State University, Northeastern Illinois University, or Western Illinois University.
- i) "Vendor" shall mean any person who contracts with the Board for the sale of goods or services to the Board.
- j) "Vice Chancellor" shall mean the Board's Vice Chancellor for Administration and Fiscal Affairs, provided that with respect to purchases by a University, the University's Administrative Vice President shall be authorized to perform the functions delegated herein to the Vice Chancellor.
- k) Terms defined in the Act shall have the same meaning in these rules.

Section 531.30 Goal

The goal of the Board is to award to minority and female owned businesses contracts totalling at least 10% of the dollar value of its State contracts measured on a full fiscal year basis. Contracts representing at least 50% of the dollar value associated with the established goal shall be awarded to female



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owned businesses. The goal of the Board is to attain these percentages by September 22, 1990.

Section 531.40 Contracts and Expenditures Subject to Act

a) For each fiscal year the monetary value of the goal shall be computed by applying the goal percentage against the monetary value of all State contracts which are executed by the Board during the fiscal year, are not exempted under the Act, and are funded exclusively with State appropriated funds not subject to federal reimbursement.

b) The following are not considered to be contracts or expenditures subject to the Act:

- 1) employee wages, salary, and other payroll related costs;
- 2) contracts between the Board and other State universities or Board entities, not including payments to private vendors;
- 3) contracts with governmental entities;
- 4) refunds of money;
- 5) expenditures of non-appropriated funds or contracts which are to be paid in whole or in part from non-appropriated funds in the Board treasury;
- 6) payments of money to individuals or groups in the nature of reimbursement, settlement, entitlement, or assistance;
- 7) contracts which are in whole or in part subject to federal reimbursement.

Section 531.50 Council Review of Contract Categories

a) Pursuant to Standard Procurement rules (44 Ill. Adm. Code 1.2215(d)) adopted by the Department of Central Management Services, the Council reviews each appropriation object as found in Section 13. of "AN ACT in relation to State finance" (Ill. Rev. Stat. 1987, ch. 127, par. 149) and detail objects found in the Comptroller's Uniform Statewide Accounting System Manual, determines whether one or more minority or female owned firms are currently engaged in providing

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the particular good or service in question or will enter the field during the fiscal year, and decides whether the category and associated expenditures should be removed from the goal for the current fiscal year. Categories and associated expenditures which are exempt by action of the Council shall be exempt from the Board goal.

b) The Board, through its liaison representative, may request the Council to permit an entire class of contracts to be made exempt from minority and female owned business contracting goals. The Board shall make such a request only if it can be determined, based on the best information available, that there is an insufficient number of qualified minority or female owned businesses to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class.

Section 531.60 Council Review of Specific Contracts

Pursuant to Standard Procurement rules (44 Ill. Adm. Code 1.2215(e)) adopted by the Department of Central Management Services, the Council exempts specific contracts from the goal if the Board can show that a diligent effort failed to locate one or more minority or female owned businesses that could perform the contract at a reasonable price. Any request by the Board to exempt a specific contract shall be made through the Board's liaison representative, and may request the Council to permit an individual contract or contract package to be made wholly or partially exempt from minority and female owned business contracting goals. The Board shall make such a request only if, based on the best information available, it can be determined that there is an insufficient number of minority or female owned businesses to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the individual contract or contract package in question.

Section 531.70 Liaison to the Council

- a) The Chancellor shall appoint a representative of the Board who shall serve as liaison to the Council. The liaison representative shall serve at the pleasure of the Chancellor.
- b) The liaison representative shall:



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- 1) submit to the Council on behalf of the Board the Board's annual report and other reports and documents required by the Act.
- 2) obtain reports and documents from the Council and the Department of Central Management Services including:
  - A) list of certified minority and female owned businesses;
  - B) Council's list of classes of contracts and detail objects which are exempt from contracting goals;
  - C) Council authorization to exempt, wholly or partially, individual contracts or contract packages from minority and female owned business contracting goals.
- 3) serve as coordinator of the Board's minority and female owned business program and as the information and referral center for Board minority and female business initiatives.
- 4) recommend rules governing procurement by the Board from minority and female owned business enterprises, submit such recommendations to the Chancellor, and coordinate the adoption of Board rules under the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1001, et seq.).

Section 531.80 Minority and Female Status

- a) Minority and female owned business refers to for-profit enterprises regardless of form of organization (sole proprietorship, partnership or corporation).
- b) A female owned business may be counted or included for sheltered market and goal purposes as a female owned business regardless of the ethnicity of the female owner or owners.
- c) For sheltered market and goal purposes no business shall be counted as both a minority owned business and a female owned business.

Section 531.90 Sheltered Market

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- a) The Vice Chancellor is authorized to limit prospective vendors to minority and/or female owned businesses or to require that vendors utilize minority and female owned subcontractors for certain categories of contracts or for specific contracts. When a sheltered market set-aside is made the advertisement and/or bid document, if applicable, shall clearly state that the contract is available only for certified or temporarily certified minority or female owned businesses. Sheltered market set-asides may be effective for such period of time and for such number of contracts as the Vice Chancellor determines is necessary to reach the goal.
  - b) Sheltered market set-asides may be used by the Vice Chancellor as the primary means of meeting the goal when the Board's internal reports indicate the goal will not otherwise be met.
  - c) If the Vice Chancellor determines that acceptance of the set-aside bid will result in payment of an unreasonable price, the bids shall be rejected and the Vice Chancellor shall withdraw the set-aside designation for that particular procurement. When a set-aside is withdrawn, the Vice Chancellor shall notify each bidder of the reason for withdrawal and shall provide a copy of the notice to the Council.
  - d) The Vice Chancellor shall consider reducing or eliminating bond requirements when allowed by law and when the reduced bond amount would adequately protect the Board's interest.
  - e) The Vice Chancellor shall consider use of progress or advance payments. Advance payments must comply with Section 9.05 of "AN ACT in relation to State finance" (Ill. Rev. Stat. 1987, ch. 127, par. 145f).
  - f) Only certified or temporarily certified minority and female owned businesses may participate in sheltered markets.
- Section 531.100 Subcontracting
- a) Board goals may be satisfied in part by counting expenditures made by Board vendors to subcontractors who are certified or temporarily certified minority or female owned businesses.



NOTICE OF PROPOSED RULES

- b) The Board may require that vendors agree to subcontract with certified or temporarily certified minority or female owned businesses.
- c) The Board shall not require that a vendor enter into subcontracts with minority or female owned business when subcontracting is not necessary for the vendor to perform.
- d) When minority or female owned subcontractors are required, the bidder may be required to designate them by name and anticipated expenditure as a part of the bid. Alternatively the bidder may be required to make a commitment in the bid to hire minority or female businesses as subcontractors and identify the subcontractors at a later date.
- e) If a vendor cannot locate minority or female owned subcontractors willing to subcontract or if a designated minority or female owned subcontractor is later unable or unwilling to perform, the Vice Chancellor shall excuse the vendor from having to comply with the requirement provided the vendor has made a good faith effort to locate or replace the required minority or female owned subcontractor.
- f) A good faith effort shall, at a minimum, consist of the following:
- 1) contacting the Minority and Female Business Enterprise Division of the Department of Central Management Services (Division) at least 15 days prior to need and requesting referrals from the certified vendor list and from any other list maintained by the Division.
  - 2) advertising in the official state newspaper or a local newspaper as time permits.
  - 3) contacting appropriate organizations such as unions, contractor associations, and minority or female oriented organizations.
  - g) Any vendor claiming good faith relief must fully document, in writing, the steps taken to obtain minority and female owned subcontractors. The Vice Chancellor may require additional information if the submittal does not meet the criteria stated above.

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- h) If a good faith exception is granted, the Vice Chancellor shall notify the Secretary of the Council of the exception and shall include all pertinent information.
- i) If a vendor obtains a contract requiring hiring of minority and female owned subcontractors and fails to do so and does not qualify for a good faith exception, the Board may cancel the contract. If the contract is cancelled, the vendor shall be liable for any damages the Board may suffer because of the cancellation and need to find a substitute vendor.

Section 531.110 Certification and Temporary Certification of Minority and Female Owned Business

- a) Each minority and female owned business, whether in a direct or subcontract relationship with the Board, must be certified under procedures devised by the Council or temporarily certified by the Board before the business is eligible to bid for or accept a contract or subcontract under the set-aside authorized by Section 531.90. The primary purpose of the certification process is to determine if ownership is by minorities or females and to determine if minorities or females have operational control of the firm.
- b) A person shall be deemed certified if included in the list of certified minority and female owned and operated businesses issued by the Department of Central Management Services.
- c) A person shall be temporarily certified by the Board upon proof that the person has applied to the Department of Central Management Services for certification and upon submittal to the Vice Chancellor of a complete and accurate Bidder's Application Form which indicates on its face that the person is a minority or female owned business as defined by the Act.
- d) This temporary certification is valid until the Council has determined whether the applicant shall be certified but is subject to revocation by the Board for failure to comply with the program eligibility requirements of the Act or with the certification procedures adopted by the Council. A Council determination that a person is not a minority or female owned business shall be cause for revocation of any temporary certification previously granted to that person.



## NOTICE OF PROPOSED RULES

## NOTICE OF PROPOSED RULES

e) Decisions regarding a person's status as certified, temporarily certified or decertified shall be made by the Vice Chancellor and may be appealed to the Chancellor under the provisions of Subsection (h).

f) When the Vice Chancellor has determined that a person is temporarily certified, the Vice Chancellor will notify the person by letter that temporary certification is granted only until the Council has determined whether the applicant shall be certified, and further, that such temporary certification may be revoked at any time if it is determined that the person no longer satisfies the eligibility standards for temporary certification. A copy of the notification will be sent to the Council.

g) When the Vice Chancellor determines that a bidder, vendor, or subcontractor does not meet the requirements for temporary certification, the Vice Chancellor shall notify the bidder, vendor, or subcontractor by certified mail of the denial or revocation, the rationale for the decision, and the appeal process.

h) Notification of Appeal.

1) Upon receipt of a certified letter advising of a denial or revocation of certification or temporary certification, a person may submit a letter of appeal with reasons why the decision for denial or revocation should be reversed. This letter of appeal must be received by certified mail in the office of the Chancellor within 30 days after the person has received the letter of denial or revocation.

2) If the appeal is received prior to the deadline, the Chancellor will review the appeal.

3) If the appellant firm is included in the list of certified minority and female owned and operated businesses or is qualified for temporary certification, the Chancellor shall notify the appellant by letter that it is certified or temporarily certified, as the case may be. A copy of the notification will be sent to the Council.

4) If the appellant firm is not included in the list of certified minority and female owned and operated businesses and the Chancellor does not temporarily certify the appellant firm as a minority or female

owned business enterprise, the Chancellor shall send a letter so advising the appellant and advising that the decision is final and effective on the date specified.

## Section 531.120 Nonassignability and Change of Status

a) Any contract awarded under a set-aside shall not be assigned to another vendor without permission of the Vice Chancellor.

b) If, during contract performance, a vendor who received a contract under a set-aside ceases to qualify as a certified or temporarily certified minority or female owned business because of subsequent business transfer, reorganization, or other reason, the Board may cancel the contract immediately without penalty to the Board. In determining whether the set-aside contract is to be cancelled, the Vice Chancellor shall consider the cost of utilizing another vendor, the availability of another vendor, delivery time, and other such factors.

c) Vendors who cease to qualify as minority or female owned businesses shall promptly report that change of status to the Council and the Vice Chancellor.

## Section 531.130 Penalty to Vendor

The following penalties may be assessed in accordance with the Act.

a) Refusal to supply proof or additional proof of status when claiming minority or female status shall result in suspension from participating in sheltered market programs for a period not to exceed one year.

b) Refusal to supply additional proof of status when requested by the Council or the Board after receiving a contract under Section 531.90 shall result in suspension from receiving any additional contracts from the Board for a period not exceeding one year and, if in the Board's interest, cancellation of the contract and other existing set-aside contracts without penalty to the Board. In determining whether it is in the Board's interest to cancel the contract and other existing set-aside contracts, the Vice Chancellor shall consider the cost of utilizing another vendor, the availability of another vendor, delivery time, and other such factors.

## NOTICE OF PROPOSED RULES

- c) Accepting a contract from the Board under any sheltered market procurement when the vendor does not qualify as a minority or female owned business pursuant to Section 531.110 above shall result in suspension from all Board bidding and contracting for a period not exceeding one year and, if in the Board's interest, cancellation of the contract and other existing set-aside contracts without penalty to the Board. In determining whether it is in the Board's interest to cancel the contract and other existing set-aside contracts, the Vice Chancellor shall consider the cost of utilizing another vendor, the availability of another vendor, delivery time, and other such factors.

## Section 531.140 Report of Violation

If the Board finds a business in violation of the Act or of this Part, the Board shall report such violation to the Council.

## Section 531.150 Annual Report

On or before November 1 of each year the Board shall file with the Council a report of its utilization of minority and female owned businesses during the preceding fiscal year. The Board's liaison representative shall establish the format of the report after consultation with the Secretary of the Council. The report shall include the Board's evaluation of its efforts during the preceding fiscal year to meet Board goals under the Act.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Rail Carrier Contract Rates
- 2) Code Citation: 92 Ill. Adm. Code 1595
- 3) Section Numbers: Proposed Action:  
 1595.1 New Section  
 1595.2 New Section  
 1595.7 New Section  
 1595.8 New Section
- 4) Statutory Authority: Implementing Section 18c-7301 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18c-7301 and 18c-1202)
- 5) A Complete Description of the Subjects and Issues Involved: These rules are being proposed to replace the current rules at 92 Ill. Adm. Code 1595, proposed for repeal elsewhere in this issue of the Illinois Register. These rules will incorporate by reference the Federal rules on railroad contracts at 49 CFR 1313. This is in response to a decision of the Interstate Commerce Commission, Ex Parte No. 388 (Sub No. 7) ordering the Commission to conform its contract rules to the new final contract rules of the Interstate Commerce Commission.
- 6) Will these proposed rules replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed rules contain incorporations by reference? Yes.
- 9) Are there any other proposed amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: These rules neither create nor expand a state mandate on units of local government, school districts, or community college districts.



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## NOTICE OF PROPOSED RULES

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any person who plans to submit comments should file a notice of intent thereof, within 21 days of the date of this issue of the Illinois Register with:

Director of Processing  
Transportation Division  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, Illinois 62706

Comments should be filed with the Director of Processing within 45 days of the date of this issue of the Illinois Register.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 8, 1988
- B) Types of small businesses affected: These rules will affect any rail carrier subject to the jurisdiction of the Commission that is also a small business as defined in the Illinois Administrative Procedure Act.
- C) Reporting, bookkeeping or other procedures required for compliance: Filing procedures.
- D) Types of professional skills necessary for compliance: Managerial skills.

The full text of the Proposed Rules begins on the next page:

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## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION  
CHAPTER III: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: RAIL CARRIERS

PART 1595  
RAIL CARRIER CONTRACT RATES

- Section 1595.1 Adoption of 49 CFR 1313 by Reference
- 1595.2 Jurisdiction; contract approval/disapproval
- 1595.7 Contract filing, title pages, and numbering
- 1595.8 Contract and contract summary availability

AUTHORITY: Implementing Section 18c-7301 and authorized by Section 18c-1202 of the Illinois Commerce Transportation Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18c-7301 and 18c-1202).

SOURCE: Peremptory rules adopted at 6 Ill. Reg. 3085, effective March 29, 1982; emergency repealer, emergency rule at 6 Ill. Reg. 6784, effective May 21, 1982, for a maximum of 150 days; rules repealed, new rules adopted at 6 Ill. Reg. 13266, effective October 15, 1982; emergency amendment at 7 Ill. Reg. 8164, effective June 28, 1983, for a maximum of 150 days; amended and codified at 7 Ill. Reg. 16360, effective November 24, 1983; Part recodified at 10 Ill. Reg. 18006; amended at 11 Ill. Reg. 15062, effective October 1, 1987; Part repealed and new Part adopted at 11 Ill. Reg. , effective .

Section 1595.1 Adoption of 49 CFR 1313 by Reference

The Illinois Commerce Commission ("Commission") adopts 49 CFR 1313, as of December 1, 1988, as its rules on rail carrier contract rates, subject to the exceptions set forth in this Part. No incorporation in this Part includes any later amendment or edition.

Section 1595.2 Jurisdiction; contract approval/disapproval

In Section 1313.2(a)(1), delete "49 U.S.C. 10713" and substitute "49 U.S.C. 11501."

Section 1595.7 Contract filing, title page, and numbering

- a) In Section 1313.7(a)(1), delete the last sentence.

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- b) In Section 1313.7(a)(5), delete "Interstate Commerce Commission, Section of Tariffs, Washington, DC 20423" and substitute

Illinois Commerce Commission  
Transportation Division  
Rail Rate and Tariff Section  
527 East Capitol Avenue  
Springfield, Illinois 67206

- c) In Section 1313.7(c), delete "ICC" and substitute "IllCC."

Section 1595.8 Contract and contract summary availability

In Section 1313.8(b)(1), delete "Bureau of Traffic and Contract Advisory Service" and insert "Transportation Division."

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Rail Carrier Contract Rates

- 2) Code Citation: 92 Ill. Adm. Code 1595

- 3) Section Numbers: Proposed Action:

1595.10	Repeal
1595.20	Repeal
1595.30	Repeal
1595.40	Repeal
1595.50	Repeal
1595.60	Repeal
1595.70	Repeal
1595.80	Repeal
1595.90	Repeal
1595.100	Repeal
1595.110	Repeal
1595.120	Repeal
1595.130	Repeal
1595.140	Repeal
1595.150	Repeal
1595.160	Repeal
1595.170	Repeal

- 4) Statutory Authority: Implementing Section 18c-7301 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18c-7301 and 18c-1202)

- 5) A Complete Description of the Subjects and Issues Involved:  
The Commission is proposing the repeal of current Part 1595 and concurrently proposing elsewhere in this issue of the Illinois Register the adoption of a new Part 1595 that will incorporate by reference the Federal rules on railroad contracts. This is being done in response to the decision of the Interstate Commerce Commission in Ex Parte No. 388 (Sub No. 7) requiring the Illinois Commerce Commission to conform its contract rules to the new final contract rules of the Interstate Commerce Commission.

- 6) Will this proposed repealer replace an emergency repealer currently in effect? No.

- 7) Does this rulemaking contain an automatic repeal date? No.



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- 8) Does this proposed repealer contain incorporations by reference? No.
- 9) Are there any other proposed amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives: This repeal will neither create nor expand a state mandate on units of local government, school districts, or community college districts.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any person who plans to submit comments should file a notice of intent thereof, within 21 days of the date of this issue of the Illinois Register with:

Director of Processing  
Transportation Division  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, Illinois 62706

Comments should be filed with the Director of Processing within 45 days of the date of this issue of the Illinois Register.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 8, 1988
- B) Types of small businesses affected: This repeal will affect any rail carrier subject to the jurisdiction of the Commission that is also a small business as defined in the Illinois Administrative Procedure Act.
- C) Reporting, bookkeeping or other procedures required for compliance: Filing procedures.
- D) Types of professional skills necessary for compliance: Managerial skills.

The full text of the Proposed Repealer begins on the next page:

## ILLINOIS COMMERCE COMMISSION

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TITLE 92: TRANSPORTATION  
CHAPTER III: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: RAIL CARRIERS

## PART 1595

## RAIL CARRIER CONTRACT RATES (REPEALED)

Section	
1595.10	Contracts
1595.20	Grounds for Review of Contract
1595.30	Grounds for Complaints
1595.40	Filing and Service of Complaints
1595.50	Commission Decision Upon Review of Contract
1595.60	Approval Date of Contract
1595.70	Limitation of Rights of a Rail Carrier to Enter Future Contracts
1595.80	Common Carrier Responsibility
1595.90	Enforcement
1595.100	Limitation on Agricultural Equipment and Relief
1595.110	Special Tariff Rules for Contracts Entered into by One or More Rail Carriers with One or More Purchasers of Rail Service General Provisions
1595.120	Filing and Availability of Contract, Contract Amendments, Contract Summary and Contract Summary Supplements
1595.130	Contract and Contract Summary Title Pages
1595.140	Contract and Contract Summary Numbering System
1595.150	Content of Contract Summary; Format
1595.160	Availability of Contract Summary
1595.170	Notice

AUTHORITY: Implementing Section 18c-7301 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 18c-7301 and 18c-1202).

SOURCE: Peremptory rule adopted at 6 Ill. Reg. 3885, effective March 29, 1982; emergency repealer, emergency rule at 6 Ill. Reg. 6784, effective May 21, 1982, for a maximum of 150 days; rules repealed, new rules adopted at 6 Ill. Reg. 13266, effective October 15, 1982; emergency amendment at 7 Ill. Reg. 8164, effective June 28, 1983, for a maximum of 150 days; amended and codified at 7 Ill. Reg. 16360, effective November 24, 1983; Part reconfirmed at 10 Ill. Reg. 18006; amended at 11 Ill. Reg. 15062, effective October 1, 1987; repealed at 11 Ill. Reg.

## ILLINOIS COMMERCE COMMISSION

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## Section 1595.10 Contracts

## a) Definition of the term "contract."

- 1) A contract subject to this Part is a written agreement, including any amendment, entered into by one or more rail carriers with one or more purchasers of rail services, to provide specified services under specified rates, charges and conditions.

## 2) A contract filed under this Part shall:

- A) specify that the contract is made pursuant to 49 U.S.C. 10713, and

- B) be signed by duly authorized parties.

## 3) The term "amendment" includes written contract modifications signed by the parties.

- 4) An amendment is treated as a new contract. An amendment is lawful only if it is filed and approved in the same manner as a contract. To the extent terms affecting the lawfulness of the underlying contract are changed, remedies are revived and review is again available.

## b) Contract implementation date.

Transportation or service performed under a contract or amendment may begin, without specific Commission authorization, on or after the date the contract and contract summary or contract amendment and supplement are filed, and before Commission approval as defined in Section 1595.60, subject to the following conditions:

- 1) The contract or contract amendment shall specifically state that the transportation or service may begin on the date of filing and that performance is subject to the conditions of Section 1595.10(b). The contract summary or supplement shall separately reflect the date of commencement of service under this provision under "duration of the contract," Section 1595.150(a)(4).

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- 2) If the rail equipment standards of 49 U.S.C. 10713(k) are exceeded, prior relief shall be obtained from the Commission and shall be specifically identified in the contract summary.
- 3) If the Commission disapproves or rejects the contract or amendment, the appropriate noncontract tariffs or the contract provisions otherwise in effect under previously approved contracts and amendments will be applicable.
- 4) Before Commission approval, the contract or amendment and transportation are subject to Commission jurisdiction, 49 U.S.C. 10713, and applicable regulations.
- 5) Transportation or service may not begin under a contract or an amendment to a contract before the filing date of either the contract or the amendment, respectively.
  - c) Rail carriers providing transportation subject to the jurisdiction of the Commission, shall file with the Commission an original and one copy of a contract entered into with one or more purchasers of rail service. The contract shall be accompanied by three copies of a summary of the nonconfidential elements of the contract in the format specified in Sections 1595.110 through 1595.170. A contract and contract summary (and amendments and supplements) may be rejected for noncompliance with applicable statutes and regulations.

## Section 1595.20 Grounds for Review of Contract

Within 30 days of the filing date of a contract, the Commission may, on its own motion or on complaint, begin a proceeding to review it. Such review shall be based only on an allegation of violations as described in Section 1595.30 below.

## Section 1595.30 Grounds for Complaints

A contract may be reviewed by the Commission on its own motion, or upon complaint, only on the following grounds:

- a) In the case of a contract other than a contract for the transportation of agricultural commodities (including



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forest products and paper), a complaint may be filed by a shipper only on the grounds that the shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations under 49 U.S.C. 11101(a).

b) In the case of a contract for the transportation of agricultural commodities (including forest products and paper), a shipper may file a complaint only on the grounds that the shipper individually will be harmed because:

- 1) the contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations under 49 U.S.C. 11101(a);
- 2) the rail carrier or carriers unreasonable discriminated by refusing to enter into a contract with the shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue and the shipper was ready, willing and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract was offered; or
- 3) the proposed contract constitutes a destructive competitive practice.

c) "Unreasonable discrimination," as used in this Part, means, when applied to agricultural shippers, that the railroad has refused to enter into a contract with the shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that the shipper was ready, willing, and able to enter into such a contract at a time, essentially contemporaneous with the period during which the contract at issue was offered.

d) The definitions for "agricultural commodities," "forest products," and "paper" will be decided on a case-by-case basis.

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## Section 1595.40 Filing and Service of Complaints

- a) A complaint shall be filed with the Commission by the 18th day after the filing date of the contract.
- b) A reply shall be filed by the 23rd day after the filing of the contract.
- c) An original and six (6) copies of each shall be filed with the Commission.
- d) A copy of the complaint shall be served on each railroad participating in the contract and replies shall be served on complainant. Complaints shall be served by hand, express mail or other overnight delivery service.

## Section 1595.50 Commission Decision Upon Review of Contract

Within 30 days after the date a proceeding is commenced to review a contract upon the grounds specified in Section 1595.30, the Commission shall decide whether the contract violates the provisions of 49 U.S.C. 10713. If the Commission finds that the contract violates the provisions of 49 U.S.C. 10713, it will.

- a) disapprove the contract; or
- b) in the case of agricultural contracts where the Commission finds unreasonable discrimination by a carrier in accordance with Section 1595.30(c), allow the carrier the option to:

- 1) provide rates and services substantially similar to the contract at issue, with such differences in terms and conditions as are justified by the evidence; or

- 2) cancel the contract.

## Section 1595.60 Approval Date of Contract

- a) If the Commission does not institute a proceeding to review the contract, it shall be approved on the 30th day after the filing of the contract. The contract shall be considered "expressly approved" by the Commission.

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- b) If the Commission institutes a proceeding to review a contract, the contract is approved:
- 1) on the date the Commission approves the contract if the date of approval is 30 or more days after the filing date of the contract;
  - 2) on the 30th day after the filing date of the contract if the Commission denies the complaint against the contract prior to the 30th day after the filing date of the contract; or
  - 3) on the 60th day after the filing date of a contract, if the Commission fails to disapprove the contract.

## Section 1595.70 Limitation of Rights of a Rail Carrier to Enter Future Contracts

The Commission may limit the right of a rail carrier to enter into future contracts if the Commission determines that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under 49 U.S.C. 11101(a). The Commission will handle these determinations on a case-by-case basis and may investigate either on its own initiative or upon the filing of a verified complaint by a shipper which demonstrates that it individually had been or will be harmed by a carrier's inability to fulfill its common carrier obligations as a result of existing contracts.

## Section 1595.80 Common Carrier Responsibility

The terms of a contract approved by the Commission determine completely the duties and service obligations of the parties to the contract with respect to the services provided under the contract. The contract does not affect the parties' responsibilities for any services which are not included in the contract.

## Section 1595.90 Enforcement

- a) The exclusive remedy for an alleged breach of contract approved by the Commission shall be an action in an appropriate state court or United States district court, unless the parties otherwise agree in the contract.

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- b) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under Section 1595.60, except to the extent necessary to comply with 49 U.S.C. 11128.

## Section 1595.100 Limitation on Agricultural Equipment and Relief

- a) A rail carrier may enter into contracts for the transportation of agricultural commodities (including forest products but not including wood pulp, wood chips, pulp wood or paper) that involve the use of carrier owned or leased equipment not in excess of 40 percent of the total number of the carrier's owned or leased equipment, by major car type, except as provided in paragraph (b) below.

- b) In the case of a proposed contract between a Class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment used on the average during the prior 3-year period may be used for the contract without prior authorization by the Commission.

- c) The Commission may grant relief from the limitations of paragraphs (a) and (b) above if:

- 1) a rail carrier or other party requests such relief; or the Commission on its own initiative considers granting such relief; and
- 2) the Commission determines that making additional equipment available does not impair the rail carrier's ability to meet its common carrier obligation under 49 U.S.C. 11101(a).

## Section 1595.110 Special Tariff Rules for Contracts Entered Into by One or More Rail Carriers with One or More Purchasers of Rail Service -- General Provisions

- a) This paragraph, and the ensuing paragraphs numbered Sections 1595.120 through 1595.170, govern the filing of contracts for railroad transportation services entered into by one or more rail carriers with one or more rail carriers with one or more purchasers of rail service.



b) Contracts for railroad transportation services and contract summaries shall be filed with the Commission in accordance with the Special Tariff Rules for Contracts prescribed in these paragraphs.

c) All contracts and amendments shall be of a size of not less than 8 by 10 1/2 inches nor greater than 8 1/2 by 14 inches; all contract summaries and supplements shall be of a size not less than 8 by 10 1/2 inches nor greater than 8 1/2 by 11 inches; any amendment to a contract shall be the same size as the contract and any supplement to a summary shall be the same size as the summary; all shall be clear, legible and on durable paper.

#### Section 1595.120 Filing and Availability of Contract, Contract Amendments, Contract Summary and Contract Summary Supplements

a) A railroad or railroads entering into a contract for railroad transportation services with one or more purchasers of rail service may file with the Commission the original and a copy of the contract and contract summary, observing the following filing conditions:

- 1) Contracts and contract summaries shall not be filed in the same packages with standard tariff filings.
- 2) The confidential contract shall not be attached to the contract summary.
- 3) The envelope or wrapper containing the contract and summary shall be marked "Confidential, Rail Contract."
- 4) A contract and summary shall be accompanied by a transmittal letter identifying the submitted documents, and the name and telephone number of a contact person.

b) The contract filed under this Part need not be made available by the rail carrier, and will not be made available by the Commission for inspection by persons other than the parties to the contract and authorized Commission personnel, except upon petition demonstrating a likelihood of succeeding on the merits of the complaint and that the matter complained of could not be

proved without access to additional contract information. If the contract has been filed, the Commission will make a copy available for inspection only under the foregoing circumstances. If a copy has not been filed, the Commission shall order a participating railroad to file a copy if a request for discovery has been received by the Commission.

c) A contract and its summary filed under 49 U.S.C. 10713 may be labeled "Non-confidential." Such a designation will permit the general public to inspect the entire contract.

d) The contract summary filed under this Part shall include the information specified in Section 1595.150. The contract summary shall be made available for inspection by the general public.

e) The contract summary filed under this Part shall not be required to be posted in any stations, but shall be made available from carriers participating in the contract upon reasonable request.

#### Section 1595.130 Contract and Contract Summary Title Pages

- a) The title page of every contract and amendment shall contain only the following information:
  - 1) In the upper right corner, the contract number (see Section 1595.140).
  - 2) In the center of the page, the issuing carrier's name, followed by the word "CONTRACT" in large print.
  - 3) Amendments to contracts shall also show, in the upper right corner, the amendment number (see Section 1595.140).
  - 4) A solid one-inch black border down the right side of the title page.
  - 5) Date of issue and date to be effective

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- b) The title page of every contract summary and supplement shall contain only the following information:

- 1) In the upper right corner, the contract summary number (see Section 1595.140).
- 2) In the center of the page, the issuing carrier's name, followed by the words "CONTRACT SUMMARY" in large print.
- 3) Date of issue and date to be effective.
- 4) In the center lower portion, the issuing individual's name and address.
- 5) Supplements to contract summaries shall also show, in the upper right corner, the supplement number (see Section 1595.140).

## Section 1595.140 Contract and Contract Summary Numbering System

- a) Each issuing carrier shall sequentially number the contract and contract summary it issues. The contract and contract summary identification number shall include the word "ILICC", the industry standard alphabet code for the issuing railroad (limited to four letters), the letter "C", and the sequential number, with each separated by a hyphen, as illustrated in the following example: the 357th contract filed by the Milwaukee Road would have the following contract tariff identification number: "ILICC-MILW-C-0357".

- b) Any amendment to a contract shall be reflected in a corresponding supplement to the contract summary. If the change in the contract is only in confidential matter, a statement to that effect will be made in the supplement.
- c) At the carrier's option, the carrier's tariff publishing officers may reserve blocks of numbers if tariffs are issued from different departments. An index to the blocks of reserved numbers shall be filed with the Commission.
- d) Contract amendments and contract summary supplements shall be sequentially numbered.

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## Section 1595.150 Content of Contract Summary; Format

- a) Contract Summaries -- For agricultural commodities, forest products or paper, shall contain the following seven terms in the order named:
- 1) Name(s) of the participating carrier(s). A list, alphabetically arranged, of the corporate names of all carriers that are parties to the contract plus their addresses for service of complaints.
  - 2) The commodity or commodities to be transported under the contract.
  - 3) The origin station(s) and destination station(s).
  - 4) The duration of the contract.
  - 5) Rail car data by number of dedicated cars, or, at the carrier's option, car days as follows:
    - A) By major car type used to fulfill the contract or contract options as follows:
      - i) available and owned by the carriers listed in subparagraph (a)(1) above with average number of bad-order cars identified;
      - ii) available and leased by the carriers in subparagraph (a)(1) above with average number of bad-order cars identified;
      - iii) (optional) on order (for ownership or lease) along with delivery dates; and
      - iv) In the event a complaint is filed involving common carrier obligation and carrier furnished cars, the carrier(s) shall immediately submit to the Commission and the complainant additional data on cars used to fulfill the challenged contract. Data shall include (by major car type used to fulfill the contract): total bad car orders; assigned car obligations; and free running cars.



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- B) In addition to (5)(A)(i) and (5)(A)(ii) for agricultural commodities (including forest products but not including wood pulp, woodchips, pulp wood or paper) a certified statement by the participating rail carrier or carriers:
- i) That the cumulative equipment total for all contracts does not exceed 40 percent of the capacity of the rail carrier's owned and leased cars by applicable major car type, and
  - ii) In the case of an agricultural shipper which originated an average of 1,000 cars or more per year during the prior 3-year period by major car type, that the equipment used does not exceed 40 percent of the rail carrier's owned or leased cars used on the average by that shipper during the previous 3 years.
- C) Rail car data need not be submitted if:
- i) the shipper furnishes the rail cars, unless the cars are leased from the carrier; or
  - ii) the contract is restricted to certain services which do not entail car supply.
- 6) Rates and charges -- Identification of base rates or charges and movement type (e.g., single car, multiple car, unit train), the minimum annual volume, and a summary of escalation provisions.
- 7) Special features -- Identification of existence (but not the terms or amount) of special features such as transit time commitments, guaranteed car supply, minimum percentage of traffic requirements, credit terms, discount, etc.

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- b) Contract Summaries -- For other commodities or services shall contain:
- 1) the information required in subparagraphs (a)(1), (a)(2), (a)(4) and (a)(5) above.
  - 2) Subparagraph (a)(7) above, special features, shall be applicable to the extent that service requirements are placed in the contract.
  - c) Format -- The contract summary and supplements shall enumerate and have each item completed. Where the item does not pertain to the contract or amendment, the term "Not Applicable" ("NA") shall be used.

## Section 1595.160 Availability of Contract Summary

- a) Copies of contract summaries are available from this Commission, and when requesting a summary reference should be made to the contract tariff identification number.

- b) Inquiries shall be directed to:

Illinois Commerce Commission  
Transportation Division  
Rail Rate and Tariff Section  
527 East Capitol Avenue  
Springfield, Illinois 62706

- c) Copies of contract summaries shall also be available from the railroad or railroads participating in the contract.

## Section 1595.170 Notice

All filed contracts (and amendments) and contract summaries (and supplements) shall provide 1 day notice to the public.





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Gallatin-Hardin	235250
Greene	6080
Hancock	90
Jackson	310
Jersey	150180
Jo Daviess	230275
Johnson	75
Macoupin	8090
Marshall-Putnam	50
McDonough	6070
Monroe	70
Pike	200250
Pope	400420
Randolph	60100
Saline	7080
Schuyler	200250
Union	320330
Washington	50
Williamson	85

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 710.20 Turkey Permit Requirements

- a) To take, or attempt to take, a wild turkey, Illinois residents must first obtain a "Wild Turkey Hunting Permit" from the Department of Conservation for a fee of \$15.00. Non resident turkey hunters shall be charged the same fee for wild turkey hunting permits as that charged residents of Illinois by the state in which the applicant resides, except that in no case shall the fee be less than \$30.00. If the state in which the applicant resides does not provide for turkey hunting by Illinois residents, then the fee shall be \$75.00. Non-residents are also required to obtain a Non-Resident Hunting License before hunting wild turkeys. Residents, except those exempted by Section 3.1 of the Wildlife Code (Ill. Rev. Stat. 1987, ch. 61, par. 3.1) are also required to obtain a hunting license before hunting wild turkey. Permits are issued for a specific county or area and are valid only in the county or area designated on the permit. Applications for wild turkey permits must be mailed to:

Department of Conservation - Turkey  
524 S. Second Street, Room 210  
P. O. Box 19446  
Springfield, Illinois 62794-9446

- b) Applicants must complete all portions of the permit application form. Incomplete applications will be rejected and fees returned. Each applicant must submit a personal check or money order for his/her individual application. Not more than 4 applications may be submitted for group

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hunters. Applicants submitting applications within three weeks of the season will not be guaranteed receipt of permit by start of season.

- c) Applications will be accepted January 14 through January 22, 20. All requests must be on an official application form. Permits are not transferable and refunds will not be granted. Permits will be allocated in a computerized drawing to be held in Springfield in which the first choice of seasons will be allocated before the second or third choices are considered.

- d) Permits not issued during the computerized drawing will be available in a random daily drawing beginning February 29, 27. All hunters not receiving a permit in the computerized drawing may apply at this time for the available permits.

- e) Any permits not issued as of the second Monday in March will also be available in a random daily drawing to those hunters who have previously received one permit.

- f) Landowners or tenants of 40 acres or more land and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. All landowners or tenants that do not reside on the property must possess a valid hunting license.

- g) Landowners, or tenants are not required to participate in the public drawing for permits and are not counted toward the total number of permits issued for a particular county. Landowner/tenant permits are valid for the entire 24 days encompassed by the 3 seasons, but allow the taking of only one wild turkey.

- 1) The immediate family is limited to the spouse, children, and parents permanently residing on the same property as the landowner or tenant.

- 2) Proof of ownership for all free landowner or tenant applications must be provided by one of the following methods:

- A) Submittal of a copy of property deed;
- B) Submittal of a copy of contract for deed;
- C) Submittal of copy of most recent real estate tax statement. (If name on tax statement is different from name of landowner, proof of purchase agreement must be submitted.)

## DEPARTMENT OF CONSERVATION

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- 3) If you are applying for a tenant permit, you are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:

- A) A copy of Internal Revenue Service Schedule F 1986
- B) Any document showing participation in Set Aside or Agricultural Conservation Programs (ACP) such as a form Agricultural Stabilization and Conservation Service 476, Commodity Credit Corporation 477 or Agricultural Conservation Programs 245.

- 4) A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.

- 5) If the property is owned or rented by more than one person: Only one landowner (and his immediate family) or one tenant (and his immediate family) will be issued a permit for every 40 acres of owned or rented land.

- 6) For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive turkey permits.

- 7) Shareholders of corporations owning 40 or more acres of land in a county may apply for a free permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a free permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a free permit by the shareholders of the trustee. If application is made for a free permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant is a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office.

- 8) Landowners or tenants who obtain a free permit to hunt their owned or leased property may apply for a second county-wide permit (\$15.00 fee) from any permits not issued as of the second Monday in March in a random daily drawing.

- h) A \$3.00 service fee will be charged for replacement permits issued by the Department.

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- i) It shall be unlawful to:

- 1) Submit applications before the second Monday in March for receiving more than one permit for the same person, and thereafter, submittal of applications for receiving more than two permits for the same person.
- 2) Provide false and/or deceptive information on a permit application form. In addition to criminal charges, individuals found guilty of violating this section shall have their application rejected, permit revoked, and fees forfeited.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 710.50 Regulations at Various Department Owned or Managed Sites

- a) Statewide regulations shall apply for the following sites:

LaRue Scatters

Oakwood Bottoms

Pike County Conservation Area

Saline County Conservation Area

Trail of Tears State Forest

Union County Conservation Area - Firing Line Management Unit Only

- b) Statewide regulations shall apply except that all hunters must check out and report turkeys harvested at the check station for the following sites:

Anderson Lake Conservation Area

Giant City State Park - hunting allowed only in designated zones.

Saline County Conservation Area—hunting-allowed-only in designated zones-

Pere Marquette State Park - designated open zone in southeast portion of the Park only.

Turkey Bluffs Fish and Wildlife Area - hunting allowed only in designated zones.



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## DEPARTMENT OF CONSERVATION

## ENVIRONMENTAL PROTECTION AGENCY

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Weinburg-King State Park - hunting allowed only in designated zones.

- c) Statewide regulations shall apply and a drawing will be held the day prior to each day's hunt to fill the area's daily hunter quota. All hunters must check in and out at the check station. Hunters will be allowed to hunt in designated zones only.

Carlyle Lake Wildlife Management Area	-	quota 12
Mississippi Palisades State Park	-	quota 10
Pere Marquette State Park	-	quota 15
Ramsey Lake State Park	-	quota 4
Siloam Springs State Park	-	quota 20

- d) Statewide regulations shall apply except that all hunters must sign in and check out to report turkeys harvested. There will be a daily quota of 2 (two)-hunters which will be taken on a first-come, first-served basis. Hunters will not be allowed to sign in prior to 4 a.m. each day of the season.

Tapley Woods (hunter quota - 2)

Fort de Chartres (hunter quota - 3; muzzleloading shotgun or archery only)

- e) Statewide regulations shall apply and a drawing will be held the day prior to each of the three seasons to fill the hunter quota. All hunters must check in and out at the check station. Hunters will be allowed to hunt in designated zones only.

Ferne Clyffe State Park (season hunter quota - 2)

- e)f) Additional regulations may be posted at the sites when more restriction is required. These additional regulations shall include, but not be limited to, selected check stations, limited hunting hours, and designated first-come first-serve sites.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1. Heading of the Part: Procedures for Collection of Permit and Inspection Fees

2. Code Citation: 35 Ill. Adm. Code 856

3. Section Numbers Proposed Action

856.101	Amend
856.102	Amend
856.201	Amend
856.202	Amend
856.204	Amend

4. Statutory Authority: Section 22.8 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1022.8, as amended by P.A. 85-143, effective January 1, 1989).

5. A Complete Description of the Subject and Issues Involved: Section 22.8 of the Environmental Protection Act prescribes an annual fee which hazardous waste storage sites, treatment sites and disposal sites must pay. These rules set forth the procedures for the collection of this fee. This rulemaking amends these rules in accordance with P.A. 85-143.

6. Will this Proposed Rulemaking replace an Emergency Rule Currently in effect? No

7. Does this Rulemaking contain an Automatic Repeal Date? No

8. Does this Rulemaking contain Incorporations by Reference? No

9. Are there any other Proposed Amendments Pending on this Part? No

10. Statement of Statewide Policy Objectives: The State of Illinois has created and implements a hazardous waste management program equivalent to the Federal Resource Conservation and Recovery Act program. The State's program involves manifest, permit and inspection activities. Such activities are necessary to ensure the equivalency of the State program with the federal program. Fees prescribed by Section 22.8 of the Act and implemented by these rules help fund those activities. These rules are necessary to help ensure that the fees are collected.

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11. Time, place and manner in which interested persons may comment on this rulemaking: Oral or written comments may be directed to the following:

Charles V. Mikalian  
Enforcement Programs  
Illinois Environmental  
Protection Agency  
2200 Churchill Road  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

All comments received on or before January 30, 1989 will be accepted.

12. Initial Regulatory Flexibility Analysis

- A. Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 5, 1988
- B. Types of small businesses affected: All businesses, large or small, involved in hazardous waste treatment, storage or disposal are effected by this rule.
- C. Reporting, bookkeeping or other procedures required for compliance:  
The regulated sites and facilities must make their fee payments on a quarterly basis, each payment being due on or before the first working day of each calendar quarter. In addition, sites and facilities must notify the Agency of changes in the number or types of operational units at each site or facility.
- D. Types of professional skills necessary for compliance:  
No special skills are required.

The full text of the Proposed Amendments begins on the next page.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE G: WASTE DISPOSAL

CHAPTER II: ENVIRONMENTAL  
PROTECTION AGENCY

## PART 856

PROCEDURES FOR COLLECTION OF PERMIT  
AND INSPECTION FEES

## SUBPART A: GENERAL PROVISIONS

Section  
856.101 Definitions  
856.102 Applicability  
856.103 Relation to Other Fee Systems

SUBPART B: PROCEEDINGS FOR COLLECTION  
OF PERMIT AND INSPECTION FEES

Section  
856.201 Notification of Status  
856.202 Changes in Status  
856.203 Resolution of Disputes  
856.204 Quarterly Submission of Fees  
856.205 Manner of Payment

AUTHORITY: Implementing and authorized by Section 22.8 of the Environmental Protection Act (Ill. Rev. Stat. 1984 Supp., ch. 111 1/2, par. 1022.8, as amended by P.A. 85-143, effective January 1, 1989).

SOURCE: Emergency rules adopted at 9 Ill. Reg. 399, effective January 1, 1985, for a maximum of 150 days; adopted at 9 Ill. Reg. 10754, effective July 1, 1985; amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_, 1989.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE

Section 856.101 Definitions

The following definitions shall apply to this Part:

"Act": The Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 1001 et seq.), as amended.

"Agency": THE ENVIRONMENTAL PROTECTION AGENCY ESTABLISHED BY THE ENVIRONMENTAL PROTECTION ACT (Section 3a of the Act).



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"Calendar Quarter": Any of the quarter portions of each calendar year, commencing respectively on January 1, April 1, July 1 and October 1.

"Hazardous Waste": A WASTE, OR COMBINATION OF WASTES, WHICH BECAUSE OF ITS QUANTITY, CONCENTRATION, OR PHYSICAL, CHEMICAL, OR INFECTIOUS CHARACTERISTICS MAY CAUSE OR SIGNIFICANTLY CONTRIBUTE TO AN INCREASE IN MORTALITY OR AN INCREASE IN SERIOUS, IRREVERSIBLE, OR INCAPACITATING REVERSIBLE, ILLNESS; OR POSE A SUBSTANTIAL PRESENT OR POTENTIAL HAZARD TO HUMAN HEALTH OR THE ENVIRONMENT WHEN IMPROPERLY TREATED, STORED, TRANSPORTED, OR DISPOSED OF, OR OTHERWISE MANAGED, AND WHICH HAS BEEN IDENTIFIED, BY CHARACTERISTICS OR LISTING, AS HAZARDOUS PURSUANT TO SECTION 3001 OF THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, P.L. 94-580, OR PURSUANT TO BOARD REGULATIONS. (Section 3j of the Act).

"Hazardous Waste Disposal Site": A SITE AT WHICH HAZARDOUS WASTE IS DISPOSED. (Section 3k of the Act).

"Hazardous Waste Management Facility": A facility at which hazardous waste is treated, either by incineration or otherwise, or stored, either in an impoundment, pile or otherwise.

"On-Site Hazardous Waste Disposal Site": A hazardous waste disposal site located on the site where such waste is produced.

"Off-Site Hazardous Waste Disposal Site": A hazardous waste disposal site located off the site where such waste is produced.

"Operational Unit": A discrete functional entity receiving or injecting hazardous waste, comprising all or part of a hazardous waste disposal site or hazardous waste management facility and subject to the fees imposed by Section 22.21 of the Act.

"Operational Unit": A discrete functional entity receiving or injecting hazardous waste, comprising all or part of a hazardous waste disposal site and subject to the fees imposed by Section 22.21 of the Act.

"Site": ANY LOCATION, PLACE, TRACT OF LAND, AND FACILITIES, INCLUDING BUT NOT LIMITED TO BUILDINGS, AND IMPROVEMENTS USED FOR PURPOSES SUBJECT TO REGULATION OR CONTROL BY THE ENVIRONMENTAL PROTECTION ACT OR REGULATIONS THEREUNDER. (Section 3dd of the Act).

"Underground Injection": THE SUBSURFACE EMPLACEMENT OF FLUIDS BY WELL INJECTION. (Section 3kk of the Act).

(Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, 1989)

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PROPOSED AMENDMENTS

## Section 856.102 Applicability

The regulations of this Part apply to fees imposed by Section 22.8 of the Act upon owners or operators of hazardous waste disposal sites or hazardous waste management facilities comprised of 1 or more operational units which:

- a) Require a Resource Conservation and Recovery Act (RCRA) permit under Section 21(f) of the Act; or
- b) Require an Underground Injection Control (UIC) permit under Section 12(g) of the Act.

(Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, 1989)

## Section 856.201 Notification of Status

- a) Except as otherwise provided in this Section, the Agency will, no later than January 4, 1985, give written notification of the applicability of this Part to the operator of any hazardous waste disposal site or hazardous waste management facility determined to be subject to the requirements of this Part. Such notice will include:

- 1) The Agency's determination of the number and types of operational units located within the hazardous waste disposal site or hazardous waste management facility;
- 2) The annual fee, and quarterly installments thereof, determined by the Agency to be imposed upon the operator by operation of Section 22.8 of the Act;
- 3) The dates upon which quarterly fee payments are due;
- 4) Instructions regarding the manner of payment; and
- 5) Instructions for initiating dispute resolution procedures under Section 856.203.

- b) Where the Agency first determines that a site is or will be subject to the requirements of this Part but the operator has not been so notified pursuant to subsection (a) of this Section, the Agency will promptly notify the operator of the site in the manner specified in subsection (a) of this Section, except that the notice shall additionally specify the amount and number of quarterly payments determined to be past due, if any, based upon either the calendar quarter of commencement of hazardous waste disposal operations or hazardous waste management operations at the site or the first calendar quarter of 1985, whichever is later.

## ENVIRONMENTAL PROTECTION AGENCY

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- c) Nothing in this section shall be construed as limiting, conditioning or extinguishing the liability of a site operator for fees owed pursuant to Section 22.8 of the Act.

(Source: Amended at Ill. Reg. \_\_\_\_, effective \_\_\_\_, 1989)

## Section 856.202 Changes in Status

- a) Whenever the number or type of operational units located within a hazardous waste disposal site or hazardous waste management facility is or will be changed, the operator of the site shall, on or before the date of such change, notify the Agency in writing, specifying the nature of the change of status; notification after the date of such change shall be deemed not timely.
- b) Whenever the Agency discovers or is advised by the operator of a change in status (i.e., a change in the number or type of operational units) at a hazardous waste disposal site or hazardous waste management facility, the Agency will promptly determine the effect, if any, of such change in status upon the permit and inspection fee for the site.
- c) If a change in status hereunder results in a change in the hazardous waste disposal site's or hazardous waste management facility's permit and inspection fee, the Agency will promptly notify the operator of the site in the manner specified in Section 856.201(a), except that the notice shall additionally specify:

- 1) The reason for the change;
  - 2) The date of the change;
  - 3) The effect of such change upon the amount of future fee payments; and
  - 4) The amount of retroactive fee increases due, if any, by operation of subsection (d) of this Section.
- d) Where a change in status results in a change in the fee applicable to a site, any effect of such change shall be prospective (i.e., shall be reflected in the next quarterly installment fee payment following the quarter in which the change occurs).

- e) For purposes of this Section, the date of a site's change in status shall be the date on which an operational unit commences operations, ceases operations in accordance with subsection (f) of this Section or is transformed into another type of operational unit (as where an on-site hazardous waste disposal site begins to receive wastes not generated at the site, thereby becoming an off-site hazardous waste disposal site). Note that a change in status does not necessarily affect the fee applicable to a site.

## ENVIRONMENTAL PROTECTION AGENCY

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- f) The status of a site shall not be affected by temporary, seasonal or periodic fluctuations in disposal activities at any operational unit. An operational unit shall be deemed to cease operations (i.e., to have received or injected the final volume of hazardous waste in contemplation of closure) at the earlier of:

- 1) the date on which operations have ceased, as proved by the operator to the Agency;
- 2) the date on which the operator has provided notice to the Agency that operations have ceased; or
- 3) the date on which the Agency has discovered that operations have ceased;

except that any operational unit which has ceased operations prior to the date of first notice pursuant to Section 856.201 shall be deemed to have ceased operations on the actual date of last receipt or injection of hazardous waste. Notwithstanding the provisions of this subsection (f), payment of any fee installment under these rules shall constitute an admission by the operator that the operational unit has not ceased operations.

(Source: Amended at Ill. Reg. \_\_\_\_, effective \_\_\_\_, 1989)

## Section 856.204 Quarterly Submission of Fees

- a) Except as otherwise provided in this Section, payment of the permit and inspection fee monies shall be made on a quarterly basis. Such payment shall be received by the Agency on or before the first working day of each calendar quarter; however, the quarterly fee payments for the first two calendar quarters of 1985 shall be due on or before April 15, 1985, and July 15, 1985, respectively. Any owner or operator of a hazardous waste disposal site who by virtue of this subsection (a) is required to make two quarterly fee payments in the month of July, 1985, may defer one such payment for not more than 45 days upon written notice to the Agency received by the Agency on or before the original due date for that payment.

The fee for facilities regulated under Section 22.8(b)(7) shall not be paid quarterly but rather shall accompany the annual report required by Board regulations for the calendar year for which the report applies.

- b) Any retroactive portion of a fee imposed pursuant to Section 856.201(b) or of a fee increase imposed pursuant to Section 856.202(d) shall be due and payable within 10 days of receipt of notification from the Agency pursuant to Sections 856.201(b) or 856.202(c).



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- c) When a hazardous waste disposal site or hazardous waste management facility commences operations after timely notice to the Agency pursuant to Section 856.202(a), no portion of the annual fee shall be retroactively imposed; only those quarterly installments which become due following the calendar quarter in which operations commence shall apply.

(Source: Amended at Ill. Reg. \_\_\_\_, effective \_\_\_\_, 1989)

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DEPARTMENT OF INSURANCE  
NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Advertisements of Medicare Supplement Insurance

- 2) Code Citation: 50 Ill. Adm. code 2010

- 3) Section Numbers Proposed Action

2010.10	New Section
2010.20	New Section
2010.30	New Section
2010.40	New Section
2010.50	New Section
2010.60	New Section
2010.70	New Section
2010.80	New Section
2010.90	New Section
2010.100	New Section
2010.110	New Section
2010.120	New Section
2010.130	New Section
2010.140	New Section
2010.150	New Section
2010.160	New Section
2010.170	New Section
Appendix A	New Appendix
Illustration A	New Illustration
Illustration B	New Illustration
Illustration C	New Illustration
Illustration D	New Illustration
Illustration E	New Illustration
Illustration F	New Illustration
Illustration G	New Illustration
Illustration H	New Illustration
Illustration I	New Illustration
Illustration J	New Illustration
Illustration K	New Illustration
Illustration L	New Illustration
Illustration M	New Illustration
Illustration N	New Illustration
Illustration O	New Illustration
Illustration P	New Illustration
Illustration Q	New Illustration

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Illustration R  
Illustration S  
Illustration T  
Illustration U  
Illustration V  
Illustration W  
Illustration X  
Illustration Y

New Illustration  
New Illustration  
New Illustration  
New Illustration  
New Illustration  
New Illustration  
New Illustration  
New Illustration

- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 73, pars. 975 and 975a, as amended by P.A. 85-1174, effective August 13, 1988.

- 5) A Complete Description of the Subjects and Issues Involved:

The purpose of this Part is to require full and truthful disclosure in advertisements of Medicare supplement benefits, limitations and exclusions in this State. The Part establishes standards and guidelines for such advertisements. The Part is based on a model regulation adopted by the National Association of Insurance Commissioners.

- 6) Will this proposed rule replace emergency rule currently in effect? No.

- 7) Does this rulemaking contain an automatic repeal date? No.

- 8) Does this rule contain incorporations by reference? No.

- 9) Are there any proposed amendments pending on this Part? No.

- 10) Statement of Statewide Policy Objections: Not Applicable

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit them in writing no later than 45 days after the publication of this Notice to:

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## DEPARTMENT OF INSURANCE

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Kirk H. Petersen  
Assistant Chief Counsel  
Department of Insurance  
320 West Washington Street, 4th Floor  
Springfield, Illinois 62767

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this proposed rulemaking will not affect small businesses as that term is defined by Ill. Rev. Stat. 1987, ch. 127, par. 1003.10.

The full text of the Proposed Rules(s) begins on the next page:



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## DEPARTMENT OF INSURANCE

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TITLE 50: INSURANCE  
CHAPTER 1: DEPARTMENT OF INSURANCE  
SUBCHAPTER 2: ACCIDENT AND HEALTH INSURANCE

## PART 2010

## ADVERTISEMENTS OF MEDICARE SUPPLEMENT INSURANCE

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AUTHORITY: Implementing and authorized by Sections 363 and 363a of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 975 and 975a, as amended by P.A. 85-1174, effective August 13, 1988).

SOURCE: Adopted at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 2010.10 Purpose

The purpose of these rules is to provide prospective purchasers with clear and unambiguous statements in the advertisement of Medicare supplement insurance; to assure the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as Medicare supplement insurance. This purpose is intended to be accomplished by the establishment of guidelines and permissible and impermissible standards of conduct in the advertising of Medicare supplement insurance in a manner which prevents unfair, deceptive and misleading advertising and is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by insurance agents and companies.

## Section 2010.20 Applicability

- a) These rules shall apply to any "advertisement" of Medicare supplement insurance as that term is defined herein, unless otherwise specified in these rules, which the insurer knows or reasonably should know is intended for presentation, distribution or dissemination in this State when such presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer or producer of this state.
- b) Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all of its Medicare supplement insurance advertisements. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurers benefiting directly or indirectly from their dissemination.
- c) Advertising materials which are reproduced in quantity shall be identified by form numbers or other identifying means. Such identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer.

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## Section 210.30 Definitions

## a) Advertisement

## 1) "Advertisement" shall include:

- A) printed and published material, audio visual material and descriptive literature used by or on behalf of an insurer in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards and similar displays;
- B) descriptive literature and sales aids of all kinds issued by an insurer, agent, producer, broker or solicitor for presentation to members of the insurance-buying public; including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and lead generating devices of all kinds as herein defined; and
- C) prepared sales talks, presentations and material for use by the insurer or the producer; and

- D) advertising material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.

## 2) The definition of "advertisement" does not include:

- A) material to be used solely for the training and education of an insurer's employees or producers;
- B) material used in-house by insurers;
- C) communications within an insurer's own organization not intended for dissemination to the public;
- D) individual communications of a personal nature with current policyholders other than material urging such policyholders to increase or expand coverages;
- E) correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;
- F) court approved material ordered by a court to be disseminated to policyholders; or
- G) a general announcement from a group or blanket policy-

holder to eligible individuals on an employment or membership list that a contract or program has been written or arranged; provided, the announcement must clearly indicate that it is preliminary to the issuance of a booklet.

- b) "Medicare Supplement Insurance" means a group or individual policy of accident and health insurance as defined in paragraph (a) of subsection (2) of Section 355a of this Code or a subscriber contract delivered or issued for delivery in this State by an insurer, fraternal benefit society, nonprofit health, hospital or medical service corporation, prepaid health plan, or any similar organization which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

- c) "Certificate" means any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this State.

- d) "Insurer" means any insurance company, nonprofit health, hospital or medical service plan corporation, health maintenance organization, prepaid health plan or any other legal entity which has or is proposing to deliver or issue for delivery in this State Medicare supplement insurance and is engaged in the advertisement of itself, or Medicare supplement insurance.

- e) "Exception" means any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

- f) "Reduction" means any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

- g) "Limitation" means any provision which restricts coverage under the policy other than an exception or a reduction.

- h) "Institutional Advertisement" means an advertisement having as its sole promotion of the reader's, viewer's or listener's interest in the concept of Medicare supplement insurance, or the promotion of the insurer as a seller of Medicare supplement insurance.

- i) "Invitation to Inquire" means an advertisement having as its



objective the creation of a desire to inquire further about Medicare supplement insurance which is limited to a brief description of coverage, and which shall contain a provision in the following or substantially similar form:

"This policy has [exclusions] [limitations] [reductions of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent or the company [whichever is applicable]."

j) "Invitation to Contract" means an advertisement which is neither an institutional advertisement nor an invitation to inquire.

k) "Person" means any natural person, association, organization, partnership, trust, group, discretionary group, corporation or any other entity.

l) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of The Social Security Amendments of 1965, as now or later amended, including the "Medicare Catastrophic Coverage Act of 1988."

m) "Lead-Generating Device," for the purpose of these rules, shall mean any communication directed to the public which, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of Medicare supplement insurance.

Section 2010.40 Method of Disclosure of Required Information

All information required to be disclosed by this Part shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous manner or fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

Section 2010.50 Form and Content of Advertisements

a) The format and content of a Medicare supplement insurance advertisement shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within

the segment of the public to which it is directed.

b) Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases whose meanings are clear only by implication or by the consumer's familiarity with insurance terminology shall not be used.

c) An insurer must clearly identify its Medicare supplement insurance policy as an insurance policy. A policy trade name must be followed by the words "... Insurance Policy" or similar words clearly identifying the fact that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans and other direct service organizations) is being offered.

d) No insurer, producer or other person shall solicit a resident of this State for the purchase of Medicare supplement insurance in connection with or as the result of the use of any advertisement by such person or any other person, where the advertisement:

- 1) Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of such person or the true purpose of the advertisement; or
- 2) Otherwise violates the provisions of this Part.

e) No insurer, producer or other person shall solicit residents of this State for the purchase of Medicare supplement insurance through the use of a true or fictitious name which is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of such person or the true purpose of the advertisement.

Section 2010.60 Advertisements of Benefits, Losses Covered or Premiums Payable

a) Deceptive Words, Phrases or Illustrations Prohibited

1) No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the

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policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

- 2) No advertisement shall contain or use words or phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will help fill some of the gaps that Medicare and your present insurance leave out," "this policy pays all that Medicare doesn't" or similar words and phrases, in a manner which exaggerates any benefit beyond the terms of the policy.
  - 3) An advertisement which also is an invitation to join an association, trust or discretionary group must solicit insurance coverage on a separate and distinct application which requires separate signatures for each application. The insurance program must be presented so as not to mislead or deceive the prospective members that they are purchasing insurance as well as applying for membership, if that is the case.
  - 4) An advertisement shall not contain descriptions of policy limitations, exceptions or reductions, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a "benefit builder" or stating "even preexisting conditions are covered after 6 months." Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered.
  - 5) An advertisement of Medicare supplement insurance sold by direct response shall not state or imply that "because no insurance agent will call and no commissions will be paid to agents" that it is a low cost plan" or use other similar words or phrases because the cost of advertising and servicing such policies is a substantial cost in marketing by direct response.
- b) Exceptions, Reductions and Limitations
- 1) An advertisement which is an invitation to contract shall disclose those exceptions, reductions and limitations affecting the basic provisions of the policy.
  - 2) When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy

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and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement which is subject to the requirements of the preceding paragraph shall disclose the existence of such periods.

- 3) An advertisement shall not use the words "only," "just," "merely," "minimum," or similar words or phrases to describe the applicability of any exceptions and reductions, such as: "This policy is subject to the following minimum exceptions and reductions."
- c) Preexisting Conditions
- 1) An advertisement which is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "preexisting condition" without an appropriate definition or description shall not be used.
  - 2) When a Medicare supplement insurance policy does not cover losses resulting from preexisting conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This rule prohibits the use of the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement shall disclose that a medical examination is required.
  - 3) When an advertisement contains an application form to be completed by the applicant and returned by mail, such application form shall contain a question or statement which reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, such an application form shall contain a question or statement substantially as follows:
    - A) Do you understand that this policy will not pay benefits during the first six (6) months after the issue date for a disease or physical condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the policy issue date? YES



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- B) Or substantially the following statement: I understand that the policy applied for will not pay benefits for any loss incurred during the first six (6) months after the issue date due to a disease or physical condition for which I received medical advice or for which treatment was recommended by or received from a physician within six (6) months before the issue date.

Section 2010.70 Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination

An advertisement which is an invitation to contract shall disclose the provisions relating to renewability, cancellability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions.

Section 2010.80 Testimonials or Endorsements by Third Parties

- a) Testimonials and endorsements used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial or endorsement, makes as its own all of the statements contained therein, and the advertisement, including such statements, is subject to all the provisions of this Part. When a testimonial or endorsement is used more than one year after it was originally given, a confirmation must be obtained.
- b) A person shall be deemed a "spokesperson" if the person making the testimonial or endorsement:
- 1) Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise; or
  - 2) Has been formed by the insurer, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer; or
  - 3) Has any person in a policy-making position who is affiliated with the insurer in any of the above described capacities; or
  - 4) Is in any way directly or indirectly compensated for making a testimonial or endorsement.
- c) The fact of a financial interest or the proprietary or

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representative capacity of a spokesperson shall be disclosed in an advertisement and shall be accomplished in the introductory portion of the testimonial or endorsement in the same form and with equal prominence thereto. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." The requirement of this disclosure may be fulfilled by use of the phrase "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement; whichever is larger. In the case of television or radio advertising, the required disclosure must be accomplished in the introductory portion of the advertisement and must be given prominence.

d) The disclosure requirements of this Part shall not apply where the sole financial interest or compensation of a spokesperson, for all testimonials or endorsements made on behalf of the insurer, consists of the payment of union "scale" wages required by union rules, and if the payment is actually for such "scale" for TV or radio performances.

e) An advertisement shall not state or imply that an insurer or a Medicare supplement insurance policy has been approved or endorsed by any individual, group of individuals, society, association or other organization, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, such fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policy-making position in the association, that fact must be disclosed.

f) When a testimonial refers to benefits received under a Medicare supplement insurance policy, the specific claim data, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. The use of testimonials which do not correctly reflect the present practices of the insurer or which are not applicable to the policy or benefit being advertised is not permissible.

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a) An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from a policy advertised unless such is the fact, and when applicable to other policies or plans shall specifically so state.

1) An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and, where statistics are given which are applicable to a different policy, it must be stated clearly that the data do not relate to the policy being advertised.

2) An advertisement using statistics which describe an insurer, such as assets, corporate structure, financial standing, age, product lines or relative position in the insurance business, may be irrelevant and, if used at all, must be used with extreme caution because of the potential for misleading the public. As a specific example, an advertisement for Medicare supplement insurance which refers to the amount of life insurance which the company has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of business.

b) An advertisement shall not represent or imply that claim settlements by the insurer are "liberal" or "generous," or use words of similar import, or state or imply that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.

c) The source of any statistics used in an advertisement shall be identified in such advertisement.

Section 2010.100 Disparaging Comparisons and Statements

An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

a) An advertisement shall not contain statements such as "no red tape" or "here is all you do to receive benefits."

b) Advertisements which state or imply that competing insurance coverages customarily contain certain exceptions, reductions or limitations not contained in the advertised policies are unacceptable unless such exceptions, reductions or limitations are contained in a substantial majority of such competing coverages.

c) Advertisements which state or imply that an insurer's premiums are lower or that its loss ratios are higher because its organizational structure differs from that of competing insurers are unacceptable.

Section 2010.110 Jurisdictional Licensing and Status of Insurer

a) An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

b) An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status; or the payment of its claims; or the merits, desirability or advisability of its policy forms or kinds of plans of insurance are approved, endorsed or accredited by any division or agency of this State or the United States Government.

c) An advertisement shall not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of the state or federal government. "Approval" of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial conditions.

Section 2010.120 Identity of Insurer

a) The name of the actual insurer shall be stated in all of its advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement which is an invitation to contract. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which with or without disclosing the name of the actual insurer would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

b) No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to combination of words,



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symbols or physical materials used by agencies of the federal government or of this State, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.

- c) Advertisements, envelopes or stationery which employs words, letters, initials, symbols or other devices which are so similar to those used by governmental agencies or other insurers are not permitted if they may lead the public to believe:

- 1) that the advertised coverages are somehow provided by or are endorsed by such governmental agencies or such other insurers;
- 2) that the advertiser is the same as, is connected with or is endorsed by such governmental agencies or such other insurers.

- d) No advertisement shall use the name of a state or political subdivision thereof in a policy name or description.

- e) No advertisement in the form of envelopes or stationery of any kind may use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised, or that any agent who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.

- f) No advertisement may incorporate the word "Medicare" in the title of the plan or policy being advertised unless, wherever it appears, said word is qualified by language differentiating it from Medicare. Such an advertisement, however, shall not use the phrase "Insurance Company," or language of similar import.

- g) No advertisement shall be used that fails to include the disclaimer to the effect of "Not Connected with or endorsed by the U.S. Government or the Federal Medicare program."

- h) No advertisement may imply that the reader may lose a right or privilege or benefit under federal, state or local law if he fails to respond to the advertisement.

- i) The use of letter, initials, or symbols of the corporate name or trademark that would have the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct and complete name of the insurer is in close conjunction and in the same size type as the letter,

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initials or symbols of the corporate name or trademark.

- j) The use of the name of an agency or "Plan" in type, size and location so as to have the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.

- k) The use of an address so as to mislead or deceive as to true identity of the insurer, its location or licensing status is prohibited.

- l) No insurer may use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive or mislead the prospective purchaser.

- m) All advertisements used by producers of an insurer must have prior written approval of the insurer before they may be used.

- n) A producer who makes contact with a consumer, as a result of acquiring that consumer's name from a lead generating device must disclose such fact in the initial contact with its consumer.

## Section 2010.130 Group or Quasi-Group Implications

- a) An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as such enjoy special rates or underwriting privileges, unless such is the fact.

- b) This rule prohibits the solicitation of a particular class, such as governmental employees, by use of advertisements which state or imply that their occupational status entitles them to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

## Section 2010.140 Introductory, Initial or Special Offers

- a) 1) An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not contain phrases describing an enrollment period as "special," "limited," or similar words or

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phrases when the insurer uses such enrollment periods as the usual method of advertising Medicare supplement insurance.

- 2) An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this State unless there has been a lapse of not less than 6 months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application, which shall be not less than ten days and not more than forty days from the date that such enrollment period is advertised for the first time. This rule applies to all advertising media, i.e., mail, newspapers, radio, television, magazines and periodicals, by any one insurer. It is not applicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the Insurance Code for group, blanket or franchise insurance. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control.
- 3) This Part prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless such is the fact.
- 4) The phrase "a particular insurance product" in subsection (2) of this Section means an insurance policy which provides substantially different benefits than those contained in any other policy. Different terms of renewability; an increase or decrease in the dollar amounts of benefits; an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.
- b) An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal

premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears. The term "juxtaposition" means side by side or immediately above or below.

- c) Special awards, such as a "safe drivers award" shall not be used in connection with advertisements of Medicare supplement insurance.

## Section 2010.150 Statements About an Insurer

An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendation.

## Section 2010.160 Enforcement Procedures

- a) Advertising File: Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state, whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be available for inspection by this Department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time.
- b) Certificate of Compliance: Each insurer which is required to file an Annual Statement with this Department and which is now or hereafter becomes subject to the provisions of this Part must file with this Department, with its Annual Statement, a Certificate of Compliance executed by an authorized officer of the insurer wherein it is stated that, to the best of his knowledge, information and belief, the advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this State.
- c) If the Director of Insurance finds that any advertisement subject to this Part has materially failed to comply with the provisions of this Part, the Director may, by order, require the person



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responsible for such non-compliance to publish in the same or similar medium, an approved correction or retraction of any untrue, misleading, or deceptive statement contained in the advertising and may prohibit such person from publishing or distributing, or allowing to be published or distributed on its behalf such advertisement or any new materially revised advertisement without first having filed a copy thereof with the Director 30 days prior to the publication or distribution thereof, or any shorter period specified in such order.

## Section 2010.170 Filing Requirements for Advertising

Every insurer shall provide a copy of any Medicare supplement advertisement intended for use in this State whether through written, radio or television medium to the Director of Insurance of this State for his review. Such advertisement shall comply with all applicable laws of this State.

## Appendix A. Interpretive Guidelines

## Section 2010 Illustration A. Guideline to Section 2010.30

This Part applies to any "advertisement" as that term is defined in Section 2010.30(a), (h), (i), and (j) unless otherwise specified in this Part. This Part applies to group, blanket and individual Medicare supplement insurance advertisements. Certain distinctions, however, are applicable to these categories. Among them is the level of conversance with insurance, a factor which is covered by Section 2010.50(a).

## Illustration B. Guideline to Section 2010.30(a)(1)

The scope of the term "advertisement" extends to the use of all media for communications to the general public, to the use of all media for communications to specific members of the general public, and to use of all media for communications by agents, brokers, producers and solicitors.

## Illustration C. Guideline to Section 2010.30(i)

A "brief description of coverage" in an invitation to inquire may consist of an explanation of Medicare benefits, minimum benefits, standards for Medicare supplement policies, the manner in which the advertised Medicare supplement insurance policy supplements the benefits of Medicare and meets or exceeds the minimum benefit requirements. An invitation to inquire shall not refer to cost or the maximum dollar amount of benefits payable.

As with all Medicare supplement insurance advertisements, an invitation to inquire must not:

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- 1) Employ devices which are designed to create undue anxiety in the minds of the elderly or excite fear of dependence upon relatives or charity;
- 2) Exaggerate the gaps in Medicare coverage;
- 3) Exaggerate the value of the benefits available under the advertised policy.
- 4) Otherwise violate the provisions of this Part.

## Illustration D. Guideline to Section 2010.40

This Part permits the use of either of the following alternative methods of disclosure:

- a) The first alternative provides for the disclosure of exceptions, limitations, reductions and other restrictions conspicuously and in close conjunction with the statements to which such information relates. This may be accomplished by disclosure in the description of the related benefits or in a paragraph set out in close conjunction with the description of policy benefits.
- b) The second alternative provides for the disclosure of exceptions, limitations, reductions and other restrictions not in conjunction with the provisions describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized, rendered obscure or otherwise made to appear unimportant. The phrase "under appropriate captions" means that the title must be accurately descriptive of the captioned material. Appropriate captions include the following: "Exceptions," "Exclusions," "Conditions Not Covered," and "Exceptions and Reductions." The use of captions such as, or similar to, the following are not acceptable because they do not provide adequate notice of the significance of the material: "Extent of Coverage," "Only these Exclusions," or "Minimum Limitations."

In considering whether an advertisement complies with the disclosure requirements of this Section, the requirements of this Section must be applied in conjunction with the form and content standards contained in Section 2010.50.

## Illustration E. Guideline to Section 2010.50(a)

The requirements of Section 2010.50(a) must be applied in conjunction with Sections 2010.10 and 2010.40. This Section refers specifically to "format and content" of the advertisement and the "overall" impression created by the

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advertisement. This involves factors such as, but not limited to, the size, color and prominence of type used to describe benefits. The word "format" means the arrangement of the text and the captions.

This Section requires distinctly different advertisements for publication in newspapers or magazines of general circulation, as compared to scholarly, technical or business journals and newspapers. Where an advertisement consists of more than one piece of material, each piece of material must, independent of all other pieces of material, conform to the disclosure requirements of this Section.

## Illustration F. Guideline to Section 2010.50(b)

This Section prohibits the use of incomplete statements and words or phrases which have the tendency or capacity to mislead or deceive because of the reader's unfamiliarity with insurance terminology. Therefore, words, phrases and illustrations used in an advertisement must be clear and unambiguous. If the advertisement uses insurance terminology, sufficient description of a word, phrase or illustration shall be provided by definition or description in the context of the advertisement. As implied in Illustration E, distinctly different levels of comprehension to the subscribers of various publications may be anticipated.

## Illustration G. Guideline to Section 2010.60(a)(1)

This Section prohibits the use of incomplete statements and words or phrases which create deception by omission or commission. The following examples are illustrations of the prohibitions created by the rule:

- a) An advertisement which describes any benefits that vary by age must disclose the fact.
- b) An advertisement that uses a phrase such as "no age limit" must disclose that premiums may vary by age or that benefits may vary by age if such is the case.
- c) Advertisements, applications, requests for additional information and similar materials are unacceptable if they state or imply that the recipient has been individually selected to be offered insurance, or has had his eligibility for such insurance individually determined in advance, when in fact the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.
- d) Advertisements for group or franchise group plans which provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for

that group, unless such is the fact.

- e) It is unacceptable to use terms such as "enroll" or "join" with reference to group or blanket insurance coverage when such is not the case.
- f) An advertisement, which states or implies immediate coverage is provided, is unacceptable unless suitable administrative procedures exist so that the policy is issued within fifteen working days after the application is received by the insurer.
- g) Applications, request forms for additional information, and similar related materials are unacceptable if they resemble paper currency, bonds or stock certificates; or use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.
- h) An advertisement which uses the word "plan" without identifying it as a Medicare supplement insurance policy is not permissible.
- i) An advertisement which implies in any manner that the prospective insured may realize a profit from obtaining Medicare supplement insurance is not permissible.
- j) An advertisement which fails to disclose any waiting or elimination periods is unacceptable.
- k) Examples of benefits payable under a policy shall not disclose only maximum benefits unless such maximum benefits are paid for loss from common or probable illnesses or accidents, rather than exceptional or rare illnesses or accidents or periods of confinement for such exceptional or rare accidents or illnesses.
- l) When a range of benefit levels is set forth in an advertisement, it must be made clear that the insured will receive only the benefit level written or printed in the policy selected and issued.
- m) Advertisements for policies whose premiums are modest because of their limited amount of benefits shall not describe premiums as "low," "low-cost," "budget" or use qualifying words of similar import. This rule also prohibits the use of words such as "only" and "just" in conjunction with statements of premium amounts when used to imply a bargain.
- n) An advertisement which exaggerates the effects of statutorily



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mandated benefits or required policy provisions or which implies that such provisions are unique to the advertised policy is unacceptable. For example, the phrase, "Money Back Guarantee," is an exaggerated description of the thirty-day right to examine the policy and is not acceptable.

- o) An advertisement which implies that a common type of policy or a combination of common benefits is "new," "unique," "a bonus," "a breakthrough," or is otherwise unusual is unacceptable. Also, the addition of a novel method of premium payment to an otherwise common plan of insurance does not render it "new."
- p) An advertisement may not omit the word "covered" when referring to benefits payable under its policy. Continued reference to "covered" is not necessary where this fact has been prominently disclosed in the advertisement.
- q) An advertisement must state that benefits payable under the policy are based upon Medicare eligible expenses, if such is the case.
- r) An advertisement which fails to disclose that the definition of "hospital" does not include a nursing home, convalescent home or extended care facility, as the case may be, is unacceptable.
- s) A television, radio, mail or newspaper advertisement, or lead generating device which is designed to produce leads either by use of a coupon, a request to write or to call the company, or a subsequent advertisement prior to contact must include information disclosing that an insurance agent may contact the applicant if such is the fact.
- t) Advertisements for policies designed to supplement Medicare shall not employ devices which are designed to create undue anxiety in the minds of the elderly. Such phrases as "here is where most people over 65 learn about the gaps in Medicare," or "Medicare is great, but ..." or which otherwise exaggerate the gaps in Medicare coverage are unacceptable. Phrases or devices which unduly excite fear of dependence upon relatives or charity are unacceptable. Phrases or devices which imply that long sicknesses or hospital stays are common among the elderly are unacceptable.
- u) An advertisement which is an invitation to contract implying that the coverage is supplemental to Medicare, if it does not explain the manner in which it is supplemental to Medicare coverage, is not acceptable.
- v) An advertisement which is an invitation to contract for Medicare

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supplement insurance is unacceptable if the advertisement:

- 1) Fails to disclose in clear language which of the Medicare benefits the policy is not designed to supplement or if it otherwise implies that Medicare provides only those benefits which the policy is designed to supplement;
  - 2) Describes the in-patient hospital coverage of Medicare as "Medicare hospital," or "Medicare Part A" when the policy does not supplement the non-hospital or the psychiatric hospital benefits of Medicare Part A;
  - 3) Fails to describe clearly the operation of the Part or Parts of Medicare which the policy is designed to supplement; or
  - 4) Describes those Medicare benefits not supplemented by the policy in such a way as to minimize their importance relative to the Medicare benefits which are supplemented.
- w) Advertisements which indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population, or that particular segments of the population are acceptable risks, when such distinctions are not maintained in the issuance of policies, are not acceptable.
- x) Any advertisement which contains statements such as "anyone can apply," or "anyone can join," other than with respect to a guaranteed issue policy for which administrative procedures exist to assure that the policy is issued within a reasonable period of time after the application is received by the insurer, is unacceptable.
- y) Any advertisement which uses any phrase or term such as "here is all you do to apply," "simply," or "merely" to refer to the act of applying for a policy which is not a guaranteed issue policy is unacceptable unless it refers to the fact that the application is subject to acceptance or approval by the insurer.
- z) Advertisements which state or imply that premiums will not be changed in the future are not acceptable unless the advertised policies so provide.
- aa) An advertisement which does not require the premium to accompany the application must not overemphasize that fact and must make the effective date of that coverage clear.
- bb) An advertisement which is an invitation to contract which fails to disclose the amount of any deductible and/or the percentage of any

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co-insurance factor is not acceptable.

Illustration H. Guideline to Section 2010.60(a)(2)

This Section recognizes that certain words and phrases in advertising may have a tendency to mislead the public as to the extent of benefits under an advertised policy. Consequently, such terms (and those specified in this Part do not represent a comprehensive list but only examples) must be used with caution to avoid any tendency to exaggerate benefits and must not be used unless the statement is literally true in every instance. The use of the following phrases based on such terms or having the same effect must be similarly restricted: "pays hospital, surgical, etc., bills," "pays dollars to offset the cost of medical care," "safeguards your standard of living," "pays full coverage," "pays complete coverage," or "pays for financial needs." Other phrases may or may not be acceptable depending upon the nature of the coverage being advertised.

This Section also prohibits words or phrases which exaggerate the effect of benefit payment on the insured's general well-being, such as "worry-free savings plan," "guaranteed savings," "financial peace of mind," and "you will never have to worry about hospital bills again."

Advertisements which are an invitation to contract for policies designed to supplement Medicare benefits are unacceptable if they fail to disclose that no hospital confinement benefits will be payable for that portion of a Medicare benefit period for which Medicare pays all hospital confinement expenses (currently sixty days) other than the initial deductible if the policy so provides. The length of said period must be stated in days.

Illustration I. Guideline to Section 2010.60(a)(4)

Explanations must not minimize nor describe restrictive provisions in a positive manner. Negative features must be accurately set forth. Any limitation on benefits precluding preexisting conditions must also be restated under a caption concerning exclusions or limitations, notwithstanding that the preexisting condition exclusion has been disclosed elsewhere in the advertisement. (See Illustration L for additional comments on preexisting conditions.)

Illustration J. Guideline to Section 2010.60(a)(5)

This Section should be applied in conjunction with Section 2010.110. Phrases such as "we cut cost to the bone" or "we deal direct with you so our costs are lower" shall not be used.

Illustration K. Guideline to Section 2010.60(b)(1)

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An advertisement which is an invitation to contract as defined in Section 2010.30(j) must recite the exceptions, reductions and limitations as required by this Section and in a manner consistent with Section 2010.40.

If an exception, reduction or limitation is important enough to use in a policy, it is of sufficient importance that its existence in the policy must be referred to in the advertisement.

Some advertisements disclose exceptions, reductions and limitations as required, but the advertisement is so lengthy that it obscures the disclosure. Where the length of an advertisement has this effect, special emphasis must be given by changing the format to show the restrictions in a manner which does not minimize, render obscure or otherwise make them appear unimportant. Illustration L. Guideline to Section 2010.60(c)(1)

This Section implements the objective of Section 2010.60(a)(4) by requiring in negative terms a description of the effect of a preexisting condition exclusion because such an exclusion is a restriction on coverage. The Section also prohibits the use of the phrase "preexisting condition" without an appropriate definition or description of the term and prohibits stating a reduction in the statutory time limit as an affirmative benefit. The words "appropriate definition or description" mean that the term "preexisting condition" must be defined as it is used by the company's claims department.

Illustration M. Guideline to Section 2010.60(c)(2)

The phrase "no health questions" or words of similar import shall not be used if the policy excludes preexisting conditions.

Use of a phrase such as "guaranteed issue," or "automatic issues," if the policy excludes preexisting conditions for a certain period, must be accompanied by a statement disclosing that fact in a manner which does not minimize, render obscure or otherwise make it appear unimportant and is otherwise consistent with Section 2010.40.

Illustration N. Guideline to Section 2010.70

Advertisements of cancellable Medicare supplement policies must state that the contract is cancellable or renewable at the option of the company as the case may be. With respect to noncancellable policies and guaranteed renewable policies, the policy provisions, with respect to renewability, must be set forth and defined where appropriate.

This Section also requires a statement of the qualifying conditions which constitute limitations on the permanent nature of the coverage. These customarily fall into three categories: 1) age limits, 2) reservation of a right to increase premiums, and 3) the establishment of aggregate limits. For



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example, "noncancellable and guaranteed renewable" does not fulfill the requirements of the rule if the policy contains a terminal age. In such a case, a proper statement would be "Noncancellable and guaranteed renewable to age \_\_\_\_." If a guaranteed renewable policy reserves the right to increase premiums, the statement must be expanded into language similar to "guaranteed renewable to age \_\_\_\_," but the company reserves the right to increase premium rates on a class basis. If the contract contains an aggregate limit after which no further benefits are payable, the above statement must be amplified with the phrase "subject to a maximum aggregate amount of \$50,000" or similar language. A Medicare supplement insurance policy may have one or more of the three basic limitations and an advertisement must describe each of those which the policy contains. Over fifty percent of new individual policy issues are guaranteed renewable; therefore, the fact that a policy is guaranteed renewable shall not be exaggerated.

An advertisement for a Medicare supplement insurance policy which provides for age step-rated premium rates based upon the policy year or the insured's attained age must disclose such rate increases and the times or ages at which such premium increases.

## Illustration O. Guideline to Section 2010.80(a)

This Section must be applied in conjunction with Section 2010.90 and requires that all such statements must be genuine and not fictitious. The manufacturing, substantive editing or "doctoring up" of a testimonial is clearly prohibited as being false and misleading to the insurance-buying public. However, language which would be unacceptable under this Part must be edited out of a testimonial.

## Illustration P. Guideline to Section 2010.80(c)

The rule requires that both approval or endorsement of a policy by an individual, group or individuals, society, association, or other organization be factual and that any proprietary relationship between the sponsoring or endorsing organization and the insurer be disclosed. For example, if the dividend under an association group case is payable to the association, disclosure of that fact is required. Also, if the insurer or an officer of the insurer formed or controls the association, that fact must be disclosed. This guideline also applies to Section 2010.80(e).

## Illustration Q. Guideline to Section 2010.90(a)

An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and, where statistics are given which are applicable to a different policy, it must be stated clearly that the data does not relate to the policy being advertised.

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An advertisement which states the dollar amount of claims paid must also indicate the period over which such claims have been paid.

If the term "loss ratio" is used, it shall be properly explained in the context of the advertisement and, unless the state has issued a regulation otherwise defining the term, it shall be calculated on the basis of premium earned to losses incurred and shall not be on a yearly run-off basis.

## Illustration R. Guideline to Section 2010.90(c)

This Section does not require the statistics for this State be used since such statistics as hospital charges and average stays may vary from state to state. When nationwide statistics are used, such fact should be noted, unless the statistics on the particular point are substantially the same in a state to which the advertisement is directed. Statistics may only be used if they are current and credible.

## Illustration S. Guideline to Section 2010.100

This Section prohibits disparaging, unfair or incomplete comparisons of policies or benefits which would have a tendency to deceive or mislead the public. The Section does not preclude the use of comparisons by health maintenance organizations, prepaid health plans and other direct service organizations which describe the difference between their prepaid health benefits coverage and indemnity insurance coverage.

## Illustration T. Guideline to Section 2010.110(a)

This Section prohibits advertisements which imply that an insurer is licensed beyond the limits of those jurisdictions where it is actually licensed. An advertisement which contains testimonials from persons who reside in a state in which the insurer is not licensed or which refers to claims of persons residing in states in which the insurer is not licensed implies licensing in those states; and, therefore, is in violation of this Section unless the advertisement states that the insurer is not licensed in those states.

## Illustration U. Guideline to Section 2010.110(b)

Although this Section permits a reference to an insurer being licensed in a state where the advertisement appears, it does not allow exaggeration of the fact of such licensing nor does it permit the suggestion that competing insurers may not be so licensed because, in most states, an insurer must be licensed in the state to which it directs its advertising.

Terms such as "official," or words of similar import, used to describe any policy of application form are not permissible because of the potential for deceiving or misleading the public. This guideline also applies to Section 2010.110(c).

## Illustration V. Guideline to Section 2010.140(a)(1)

This Section prohibits advertising representing that a product is offered on an introductory, initial or special offer basis or otherwise which will not be available later; or is available only to certain individuals, unless such is the fact. This Section prohibits the repetitive use of such advertisements. Where an insurer uses enrollment periods as the usual method of advertising these policies, this Section prohibits describing an enrollment period as a special opportunity or offer for the applicant.

## Illustration W. Guideline to Section 2010.140(a)(2)

This Section restricts the repetitive use of enrollment periods. The requirement of reasonable closing dates and waiting periods between enrollment periods was adopted to eliminate the abuses which formerly existed. This Section does not limit just the use of enrollment periods. It requires that a particular insurance product offered in an enrollment period through any advertising media, including the prepared presentations of agents, cannot be offered again in the State until 6 months from the close of the enrollment period. Thus, an insurer must choose whether to use enrollment periods or open enrollment for a product. (See Section 2010.140(a)(4) for the definition of "a particular insurance product.")

This Section does not prohibit multiple advertising during an enrollment period through any and all media published or transmitted within this State as long as the enrollment periods for all such advertisements have the same expiration date.

This Section does not prohibit the solicitation of members of a group or association for the same product even though there has not been a lapse of 6 months since the close of a preceding enrollment period which was open to the general public for the same product.

This Section does not require separation by 6 months of enrollment periods for the same insurance product in this State if the advertising material is directed by an admitted insurer to persons by direct mail on the basis that a common relationship exists with an entity. Examples of such would be a bank and its depositors, a department store to its charge account customers, or an oil company to its credit card holders, and more than one of such organizations is sponsoring such insurance product at different times if providing such insurance under such a method is not otherwise prohibited by law. However, the 6 month rule does apply to one specific sponsor to the same persons in this State on the basis of their status as customers of that one specific entity only.

## Illustration X. Guideline to Section 2010.140(a)(4)

This Section defines the meaning of "a particular insurance product" in Section 2010.140(a)(2) and prohibits advertising of products having minor variances such as different periods or different amounts of daily hospital indemnity benefits, in a succession of enrollment periods.

## Illustration Y. Guideline to Section 2010.150

This Section is closely related to the requirements of Section 2010.90 concerning the use of statistics. This Section prohibits insurers which have been organized for only a brief period of time advertising that they are "old" and also prohibits emphasizing the size and magnitude of the insurer. Also, the occupations of the persons comprising the insurer's board of directors or the public's familiarity with their names or reputations is irrelevant and must not be emphasized. The preponderance of a particular occupation or profession among the board of directors of an insurer does not justify the advertisement of a plan of insurance offered to the general public as insurance designed or recommended by members of that occupation or profession. For example, it is unacceptable for an insurance company to advertise a policy offered to the general public as "the physicians' policy" or "the doctors' plan" simply because there is a preponderance of physicians or doctors on the board of directors of the insurer. This Section prohibits the use of recommendation of a commercial rating system unless the purpose, meaning and limitations of the recommendation are clearly indicated.



## DEPARTMENT OF PUBLIC AID

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1) The Heading of the Part: CHILD SUPPORT ENFORCEMENT

2) Code Citation: 89 Ill. Adm. Code 160

3) Section Number: Proposed Action:

160.1

New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 12-13) and Section 6.02 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, Ch. 127, Par. 1006.02)

5) A Complete Description of the Subjects and Issues Involved: This new Section explains how incorporation by reference applies to 89 Ill. Adm. Code 160. Under this rule, rules and regulations of an agency of the United States or of a nationally recognized organization or association that are incorporated by reference are incorporated as of the date specified, and later amendments or editions are not included.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date?  
 Yes X No     

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
160.70	Amendment	December 9, 1988 (12 Ill. Reg. <u>    </u> )

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Anita Williams,

Counseling and Litigation, Illinois Department of Public Aid, 100 South Grand Avenue East, Springfield, Illinois 62762 (217/782-1233). The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER I: COLLECTIONS

PART 160

## CHILD SUPPORT ENFORCEMENT

## SUBPART A: CHILD SUPPORT ENFORCEMENT

Section

- 160.1 Incorporation By Reference  
160.10 Child Support Enforcement Program  
160.20 Assignment of Rights to Support

## SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

- 160.30 Cooperation With Support Enforcement Program  
160.35 Good Cause For Failure to Cooperate With Support Enforcement  
160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement  
160.45 Suspension of Child Support Enforcement Upon Finding of Good Cause

## SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section

- 160.60 Establishment and Modification of Support Obligations

## SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section

- 160.70 Enforcement of Support Orders  
160.75 Withholding of Income to Secure Payment of Support  
160.80 Amnesty - 20% Charge

## SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section

- 160.90 Earmarking Child Support Payments

AUTHORITY: Implementing and authorized by Sections 4-1.7, Article X, 12-4.3, and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 4-1.7, 10-1 et seq., 12-4.3, and 12-13 and 12-13).

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; amended at 12 Ill. Reg. 22218, effective January 1, 1989; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

## SUBPART A: CHILD SUPPORT ENFORCEMENT

## Section 160.1 Incorporation By Reference

Any rules or regulations of an agency of the United States or of a nationally recognized organization or association that are incorporated by reference in this Part are incorporated as of the date specified, and do not include any later amendments or editions.

(Source: Added at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Bill

AIDS Confidentiality and Testing Code

2) Code Citation:

77 Ill. Adm. Code 697

3) Section Numbers:

697.20	697.130	Appendix B	Proposed Action:
697.110	697.140		Amendments
697.120	697.400		

4) Statutes / Authority:

AIDS Confidentiality Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 7301 et seq., as amended by P.A. 85-1399, effective September 2, 1988 and P.A. 85-1248, effective August 30, 1988), AIDS Registry Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 7351 et seq. P.A. 85-1248, effective August 30, 1988), Section 204 of the Illinois Marriage and Dissolution of Marriage Act (Ill. Rev. Stat. 1987, ch. 40, par. 204), "AN ACT in relation to the prevention of certain communicable diseases" (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 22.11 et seq., as amended by P.A. 85-1399, effective September 2, 1988 ), and Sections 55, 55.11, 55.41 and 55.45 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, pars. 55, 55.11, 55.41 and 55.45, as amended by P.A. 85-1248, effective August 30, 1988).

5) A Complete Description of the Subjects and Issues Involved:

This rulemaking implements recent legislation amending various provisions concerning AIDS. (Public Acts 85-1399, effective September 2, 1988 and P.A. 85-1248, effective August 30, 1988) Public Acts 85-1399 and 85-1248 amend AIDS Confidentiality Act to permit HIV testing without pre-test information, counseling and written informed consent in various situations. In addition, Public Act 85-1248 amends the definitions of "AIDS" and "ARC" to refer to definitions established by the National Institutes of Health.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect?Yes ☐ No ☒7) Does this Rulemaking Contain an Automatic Repeal Date? Yes ☐ No ☒

If "yes," please specify the date: \_\_\_\_\_

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8) Does this Rulemaking Contain Any Incorporations By Reference?Yes ☐ No ☒If "yes," please specify type: 6.02(a) ☐ or 6.02(b) ☐9) Are there any other Proposed Amendments Pending on this Part?Yes ☐ No ☒

If Yes: \_\_\_\_\_

Section Numbers	Proposed Action	Ill. Reg. Citation
-----------------	-----------------	--------------------

10) Statement of Statewide Policy Objectives:

These provisions are required by recent legislation and should not expand or create state mandates.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Mr. Robert John Kane, Division of Governmental Affairs, Illinois Department of Public Health, 525 West Jefferson, Second Floor Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Robert John Kane at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:A) Date Rulemaking was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:B) Type of Small Businesses Affected:

Health care facilities, health care providers and related individuals such as firefighters and ambulance personnel.

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTSC) Reporting, Bookkeeping or Other Procedures Required for Compliance:

This rulemaking creates no new reporting, bookkeeping or other procedures.

D) Types of Professional Skills Necessary for Compliance:

This rulemaking requires medical skills in some areas.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTSTITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER d: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

## PART 697

## AIDS CONFIDENTIALITY AND TESTING CODE

## SUBPART A: GENERAL PROVISIONS

Section  
697.10 Applicability  
697.20 Definitions  
697.30 Incorporated Materials  
697.40 Administrative Hearings

## SUBPART B: HIV TESTING

Section  
697.100 Approved HIV Tests and Testing Procedures  
697.110 HIV Pre-Test Information  
697.120 Written Informed Consent  
697.130 Anonymous Testing  
697.140 Disclosure of the Identity of a Person Tested or Test Results  
697.150 Marriage License Testing Requirements  
697.160 HIV Testing for Insurance Purposes  
697.170 Enforcement of the AIDS Confidentiality Act  
697.180 HIV Testing for Blood and Human Tissue Donations

## SUBPART C: AIDS REGISTRY SYSTEM

Section  
697.200 AIDS Registry System  
697.210 Reporting Requirements  
697.220 Release of AIDS Registry Information

## SUBPART D: HIV COUNSELING AND TESTING CENTERS

Section  
697.300 HIV Counseling and Testing Centers

## SUBPART E: MISCELLANEOUS PROVISIONS

Section  
697.400 Notification of School Principals  
697.410 Guidelines for the Management of Chronic Infectious Diseases in School Children



## DEPARTMENT OF PUBLIC HEALTH

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## 697.420 Testing, Treatment or Counseling of Minors

## Appendix A Sample HIV Testing Forms

Illustration A Sample Written Informed Consent Form

Illustration B Sample Marriage License Testing Certificate

## Appendix B Statutory and Regulatory References to AIDS

AUTHORITY: Implementing and authorized by AIDS Confidentiality Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 7301 et seq., as amended by P.A. 85-1399, effective September 2, 1988 and P.A. 85-1248, effective August 30, 1988), AIDS Registry Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 7351 et seq. P.A. 85-1248, effective August 30, 1988), Section 204 of the Illinois Marriage and Dissolution of Marriage Act (Ill. Rev. Stat. 1987, ch. 40, par. 204), "AN ACT in relation to the prevention of certain communicable diseases" (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 22.11 et seq., as amended by P.A. 85-1399, effective September 2, 1988), and Sections 55, 55.11, 55.41 and 55.45 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, pars. 55, 55.11, 55.41 and 55.45, as amended by P.A. 85-1248, effective August 30, 1988).

SOURCE: Emergency rules adopted at 12 Ill. Reg 1601, effective January 1, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 9952, effective May 27, 1988; amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE OR PARAPHRASE THEREOF.

## Section 697.20 Definitions

The following are definitions of terms used in this Part:

"ACT" or "AIDS Confidentiality Act" means the AIDS Confidentiality Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 7301 et seq., as amended by P.A. 85-1399, effective September 2, 1988 and P.A. 85-1248, effective August 30, 1988).

"AIDS" MEANS ACQUIRED IMMUNODEFICIENCY SYNDROME, AS DEFINED BY THE CENTERS FOR DISEASE CONTROL OR THE NATIONAL INSTITUTES OF HEALTH. (Section 3(a) of the AIDS Registry Act) (~~Ill. Rev. Stat. 1987, ch. 111 1/2, par. 7353(a)~~). Similar definitions appear in the Act. Current definition can be found in "Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome", Centers for Disease Control. Mortality and Morbidity Weekly Report (MMWR) Suppl. 1987: 36(No. 1S), Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.

"AIDS Registry Act" means the AIDS Registry Act (Ill. Rev. Stat.

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1987, ch. 111 1/2, par. 7351 et seq., as amended by P.A. 85-1248, effective August 30, 1988).

"ARC" MEANS AIDS - RELATED COMPLEX, AS DEFINED BY THE CENTERS FOR DISEASE CONTROL OR THE NATIONAL INSTITUTES OF HEALTH OF THE UNITED STATES-PUBLIC-HEALTH-SERVICE (Section 3(a) of the AIDS Registry Act). The National Institute of Health has a provisional definition. Centers-for-Disease-Control-has-no-published-definition, however, CDC-has-established-a-classification-scheme-for-HIV-infection-that encompasses-these-clinical-manifestations-of-HIV-infection-generally considered-as-ARC. This definition is as follows:

At least two of the following clinical signs/symptoms lasting 3 or more months plus two or more of the following laboratory abnormalities, occurring in a patient in a cohort at increased risk for developing AIDS and having no underlying infectious cause for the symptoms.

## Clinical

Fever: greater than 100°F, intermittent or continuous 3 months, in the absence of other identifiable cause

Weight loss: 10% of normal body weight or greater than 15 lb.

Lymphadenopathy: persistent greater than 3 months, involving two or more extralymphatic nodebearing areas

Diarrhea: intermittent or continuous greater than 3 months, in the absence of other identifiable cause

Fatigue: to the point of decreased physical or mental function

Night sweats: intermittent or continuous greater than 3 months, in the absence of other identifiable cause

## Laboratory

Depressed helper T cells (greater than 2 SD below the mean)

Depressed helper/suppressor ratio (greater than SD below the mean)

At least one of the following: leukopenia, thrombocytopenia, absolute lymphopenia, or anemia

Elevated serum globulins

Depressed blastogenesis (pokeweed, phytohemagglutinin (PHA) mitogens)

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Abnormal intradermal tests for delayed cutaneous hypersensitivity (using multitest or equivalent)

- A-repeatedly-reactive-screening-test-for-HIV-antibody-(e-g-r-ELISA) and-a-positive-supplemental-test,-such-as-a-Western-blot,-and-at least-one-of-the-following-
- Palpable-lymphadenopathy-(lymph-node-enlargement-of-1-cm,-or greater)-at-two-or-more-extra-inguinal-sites-persisting-for more-than-three-months-in-the-absence-of-a-concurrent-illness or-condition-other-than-HIV-infection-to-explain-the-finding-
  - One-or-more-of-the-following:-fever-persisting-more-than-one month;-involuntary-weight-loss-of-greater-than-10%-baseline; or-diarrhea-persisting-more-than-one-month;-and-the-absence-of two-concurrent-illnesses-or-conditions-other-than-HIV-infection to-explain-the-findings-
  - One-or-more-of-the-following-neurologic-conditions:-dementia; myelopathy-or-peripheral-neuropathy;-and-the-absence-of-a concurrent-illness-or-condition-other-than-HIV-infection-to explain-the-findings-
  - Symptomatic-or-invasive-disease-due-to-one-of-the-following:- oral-hairy-leukoplakia;-multidermatomal-herpes-zoster;- recurrent-salmonella-bacteremia;-nocardiosis;-tuberculestis;-or oral-candidiasis-(thrush)-;

"Blood Bank" means any facility or location at which blood or plasma are procured, furnished, donated, processed, stored or distributed.

"DEPARTMENT" MEANS THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH. (Section 3(a) of the AIDS Confidentiality Act.)

"Designated Agency" means a health care organization under a service agreement with the Department to function in the capacity of a Local Health Authority for the purposes of this Part, in a jurisdiction not covered by a Local Health Authority.

"HEALTH CARE PROVIDER" MEANS ANY PHYSICIAN, NURSE, PARAMEDIC, PSYCHOLOGIST OR OTHER PERSON PROVIDING MEDICAL, NURSING, PSYCHOLOGICAL, OR OTHER HEALTH CARE SERVICES OF ANY KIND. (Section 3(f) of the AIDS Confidentiality Act.)

"HEALTH FACILITY" MEANS A HOSPITAL, NURSING HOME, BLOOD BANK, BLOOD CENTER, SPERM BANK, OR OTHER HEALTH CARE INSTITUTION, INCLUDING ANY "HEALTH FACILITY" AS THAT TERM IS DEFINED IN THE ILLINOIS HEALTH

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FACILITIES AUTHORITY ACT. (Section 3(e) of the AIDS Confidentiality Act.)

"HIV" MEANS THE HUMAN IMMUNODEFICIENCY VIRUS. (Section 3(c) of the AIDS Confidentiality Act.)

"HIV-Infected" or "HIV infection" means infected with HIV, as evidenced by a confirmed laboratory test for antibodies to HIV as specified in Section 697.100, viral culture or positive antigen test or a clinical diagnosis of AIDS.)

"Laboratory" means any facility or location at which tests are performed to determine the presence of antibodies to HIV, other than blood banks.

"Legally Authorized Representative" means an individual who is authorized to consent to HIV testing and/or disclosure of HIV test results for an individual who is:

Under the age of twelve (12),

Deceased,

Declared incompetent by a court of law, or

Otherwise not competent to consent (for reasons other than age such as the apparent inability to understand or communicate with the health care provider) as determined by the health care provider seeking such consent.

The following individuals shall be authorized to consent, in the stated order of priority:

For a living or deceased child under the age of eighteen (18):

Parent, legal guardian or other court-appointed personal representative,

Adult next-of-kin.

For a living or deceased adult age eighteen (18) or over:

Agent authorized by durable power of attorney for health care,

Legal guardian or other court-appointed personnel representative,



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Spouse,

Adult children,

Parent,

Adult next-of-kin.

"Local Health Authority" means THE FULL-TIME OFFICIAL HEALTH DEPARTMENT OR BOARD OF HEALTH, HAVING JURISDICTION OVER A PARTICULAR AREA. (Illinois Sexually Transmissible Disease Control Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par 7401 et seq.).

"PERSON" INCLUDES ANY NATURAL PERSON, PARTNERSHIP, ASSOCIATION, JOINT VENTURE, TRUST, GOVERNMENTAL ENTITY, PUBLIC OR PRIVATE CORPORATION, HEALTH FACILITY OR OTHER LEGAL ENTITY. (Section 3(h) of the AIDS Confidentiality Act.)

"Physician" means a physician licensed to practice medicine under the Medical Practice Act of 1987 (Ill. Rev. Stat. 1987, ch. 111 1/2, par 4401-1 et seq.).

"TEST" OR "HIV TEST" MEANS A TEST TO DETERMINE THE PRESENCE OF THE ANTIBODY OR ANTIGEN TO HIV, OR OF HIV INFECTION. (Section 3(g) of the AIDS Confidentiality Act.)

"WRITTEN INFORMED CONSENT" MEANS AN AGREEMENT IN WRITING EXECUTED BY THE SUBJECT OF A TEST OR THE SUBJECT'S LEGALLY AUTHORIZED REPRESENTATIVE WITHOUT UNDUE INDUCEMENT such as ANY ELEMENT OF FORCE, FRAUD, DECEIT, DURESS OR OTHER FORM OF CONSTRAINT OR COERCION (See, Appendix A, Illustration A.), WHICH ENTAILS AT LEAST THE FOLLOWING:

A FAIR EXPLANATION OF THE TEST, INCLUDING ITS PURPOSE, POTENTIAL USES, LIMITATIONS AND THE MEANING OF ITS RESULTS; AND

A FAIR EXPLANATION OF THE PROCEDURES TO BE FOLLOWED, INCLUDING THE VOLUNTARY NATURE OF THE TEST, THE RIGHT TO WITHDRAW CONSENT TO THE TESTING PROCESS AT ANY TIME prior to the completion of the laboratory tests, THE RIGHT TO ANONYMITY TO THE EXTENT PROVIDED BY LAW WITH RESPECT TO PARTICIPATION IN THE TEST AND DISCLOSURE OF TEST RESULTS, AND THE RIGHT TO CONFIDENTIAL TREATMENT OF INFORMATION IDENTIFYING THE SUBJECT OF THE TEST AND THE RESULTS OF THE TEST, TO THE EXTENT PROVIDED BY LAW. (Section 3(d) of the AIDS Confidentiality Act.)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

Section 697.30 Incorporated Materials

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The following materials are incorporated or referenced in this Part:

## a) Illinois Statutes

- 1) AIDS Confidentiality Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 7301 et seq., as amended by P.A. 85-1399, effective September 2, 1988 and P.A. 85-1248, effective August 30, 1988),
- 2) AIDS Registry Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 7351 et seq., as amended by P.A. 85-1248, effective August 30, 1988),
- 3) Illinois Marriage and Dissolution of Marriage Act (Ill. Rev. Stat. 1987, ch. 40, par. 204),
- 4) AN ACT in relation to the prevention of certain communicable diseases (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 22.11 et seq., as amended by P.A. 85-1399, effective September 2, 1988).

## b) Illinois Rules

- 1) Control of Communicable Disease Code (77 Ill. Adm. Code 690; See in particular Section 697.140(a)(4)),
  - 2) Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693; See in particular Sections 697.140(a)(4) and 697.210(a)),
  - 3) Clinical Laboratories and Blood Banks (77 Ill. Adm. Code 450; See in particular Section 697.180(c) and (e)),
  - 4) Blood Labeling Code (77 Ill. Adm. Code 460; See in particular Section 697.180(c) and (e)),
  - 5) Sperm Bank and Tissue Bank Code (77 Ill. Adm. Code 470; See in particular Section 697.180(c) and (e)),
  - 6) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100; See in particular Section 697.40).
- c) Federal Rules
- 42 CFR 2a. 4(a) - (j) 2a., 6(a) - (b), and 2a. 7(a) - (b).
- d) Other Codes, Guidelines and Standards
- 1) "Revision of the CDC Surveillance Case Definition for Acquired Immunodeficiency Syndrome," Centers for Disease Control.

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Mortality and Morbidity Weekly Report (MMWR) Suppl. 1987; 36 (No. 1S), Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333. (See the definition of AIDS in Section 697.20)

potential uses, limitations of the test and test results, and the statutory rights to anonymous testing and to confidentiality),

- 2) "AIDS Confidential Case Report" a form prepared by the Centers for Disease Control, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333, Office of Management and Budget No. 0920-0009. (1987) (See Section 697.210)
- 3) Guidelines for the Management of Chronic Infectious Diseases in School Children. (See Section 697.410)
- 4) "Classification Scheme for HIV Infection", Centers for Disease Control, Morbidity and Mortality Weekly Report (MMWR). Vol. 35, No. 20, May 23, 1986, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia 30333.

- 5) John Gallin and Anthony Fauci, Advances in Host Defense Mechanisms, Volume 5 (1985) (See the definition of ARC in Section 697.20).

- e) All citations to federal regulations in this Part concern the specified regulations in the 1987 Code of Federal Regulations, unless another date is specified.

- f) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 697.110 HIV Pre-Test Information

- a) NO PHYSICIAN MAY ORDER AN HIV TEST WITHOUT MAKING AVAILABLE TO THE PERSON TESTED pre-test information, except as provided in subsection (b) below. The responsibility of providing pre-test information may not be delegated by the physician. However, the task of providing pre-test information to the patient may be delegated to another health care provider who is knowledgeable about HIV infection including possible medical and psychosocial aspects of such infection. The required pre-test information consists of the following information:

- 1) ABOUT THE MEANING OF THE TEST RESULTS (such as, the purpose,

- 2) THE AVAILABILITY OF ADDITIONAL OR CONFIRMATORY TESTING, IF APPROPRIATE (See Section 697.100(b)), and

- 3) THE AVAILABILITY OF REFERRALS FOR FURTHER INFORMATION OR COUNSELING. (Section 5 of the AIDS Confidentiality Act).

- b) Pre-test information when ordering an HIV test is not required in the following situations:

- 1) WHEN THE HEALTH CARE PROVIDER OR HEALTH FACILITY PROCURES, PROCESSES, DISTRIBUTES OR USES A HUMAN BODY PART DONATED FOR PURPOSES SPECIFIED UNDER THE UNIFORM ANATOMICAL GIFT ACT, or the Organ Donation Request Act and THE TEST IS PERFORMED TO ASSURE THE MEDICAL ACCEPTABILITY OF THE HUMAN BODY PART. (Section 7 of the AIDS Confidentiality Act.)

- 2) WHEN THE TESTING IS FOR THE PURPOSE OF RESEARCH AND PERFORMED IN SUCH A WAY THAT THE IDENTITY OF THE TEST SUBJECT IS NOT KNOWN AND MAY NOT BE RETRIEVED BY THE RESEARCHER, AND IN SUCH A WAY THAT THE TEST SUBJECT IS NOT INFORMED OF THE RESULTS OF THE TESTING. (Section 8 of the AIDS Confidentiality Act.)

- 3) WHEN AN INSURANCE COMPANY, FRATERNAL BENEFIT SOCIETY, HEALTH SERVICES CORPORATION, HEALTH MAINTENANCE ORGANIZATION, OR ANY OTHER INSURER SUBJECT TO REGULATION UNDER THE ILLINOIS INSURANCE CODE, AS AMENDED, REQUIRES ANY INSURED PATIENT OR APPLICANT FOR NEW OR CONTINUED INSURANCE OR COVERAGE TO BE TESTED FOR INFECTION WITH HIV VIRUS OR ANY OTHER IDENTIFIED CAUSATIVE AGENT OF AIDS. (Section 20.1 of P.A. 85-677 and 85-679, effective September 21, 1987.) (See Section 697.170.)

- 4) WHEN IN THE JUDGMENT OF THE PHYSICIAN, SUCH TESTING IS MEDICALLY INDICATED TO PROVIDE APPROPRIATE DIAGNOSIS AND TREATMENT TO THE SUBJECT OF THE TEST, PROVIDED THAT THE SUBJECT OF THE TEST HAS OTHERWISE PROVIDED HIS OR HER CONSENT TO SUCH PHYSICIAN FOR MEDICAL TREATMENT. (Section 8 of the AIDS Confidentiality Act.)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 697.120 Written Informed Consent

- a) NO PERSON MAY ORDER PERFORM AN HIV TEST WITHOUT FIRST RECEIVING



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THE WRITTEN, INFORMED CONSENT OF THE SUBJECT OF THE TEST OR THE SUBJECT'S LEGALLY AUTHORIZED REPRESENTATIVE, except as provided in subsection (b). (Section 4 of the AIDS Confidentiality Act.)  
~~For the purposes of this section, the performance of an HIV test means to order the HIV test be conducted for a specific sample, not actually conducting the test on a specific sample. (See Appendix A, Illustration A, for a Sample Written Informed Consent Form)~~

- 1) This written informed consent and test results must be obtained by the physician ordering the test or by another physician involved in the patient's care.
  - 2) The responsibility of obtaining written informed consent may not be delegated by the physician. However, the task of obtaining written informed consent from the patient may be delegated to another health care provider who is knowledgeable about HIV infection, including possible medical and psychosocial aspects of such infection.
- b) Written informed consent to perform an HIV test is not required in the following situations:
- 1) WHEN THE HEALTH CARE PROVIDER OR HEALTH FACILITY PROCURES, PROCESSES, DISTRIBUTES OR USES A HUMAN BODY PART DONATED FOR PURPOSES SPECIFIED UNDER THE UNIFORM ANATOMICAL GIFT ACT, or the Organ Donation Request Act AND THE TEST IS PERFORMED TO ASSURE THE MEDICAL ACCEPTABILITY OF THE HUMAN BODY PART. (Section 7 of the AIDS Confidentiality Act.)
  - 2) WHEN THE HEALTH CARE PROVIDER OR HEALTH FACILITY PROCURES, PROCESSES, DISTRIBUTES OR USES SEMEN PROVIDED PRIOR TO SEPTEMBER 21, 1987, FOR THE PURPOSE OF ARTIFICIAL INSEMINATION AND THE TEST IS PERFORMED TO ASSURE THE MEDICAL ACCEPTABILITY OF THE SEMEN. (Section 7 of the AIDS Confidentiality Act.)
  - 3) WHEN THE TESTING IS FOR THE PURPOSE OF RESEARCH AND PERFORMED IN SUCH A WAY THAT THE IDENTITY OF THE TEST SUBJECT IS NOT KNOWN AND MAY NOT BE RETRIEVED BY THE RESEARCHER, AND IN SUCH A WAY THAT THE TEST SUBJECT IS NOT INFORMED OF THE RESULTS OF THE TESTING. (Section 8 of the AIDS Confidentiality Act.)
  - 4) WHEN AN HIV TEST IS PERFORMED UPON A PERSON WHO IS SPECIFICALLY REQUIRED BY state or federal law TO BE TESTED, such as marriage license applicants, blood, plasma, semen and human tissue donors, immigrants to the United States, and persons required to be tested pursuant to Section 4 of "AN ACT in relation to blood and acquired immunodeficiency syndrome" (Section 4 of P.A.

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85-935, effective December 2, 1987). (Section 11 of the AIDS Confidentiality Act.)

- 5) WHEN AN INSURANCE COMPANY, FRATERNAL BENEFIT SOCIETY, HEALTH SERVICES CORPORATION, HEALTH MAINTENANCE ORGANIZATION, OR ANY OTHER INSURER SUBJECT TO REGULATION UNDER THE ILLINOIS INSURANCE CODE, AS AMENDED REQUIRES ANY INSURED PATIENT OR APPLICANT FOR NEW OR CONTINUED INSURANCE OR COVERAGE TO BE TESTED FOR INFECTION WITH HIV VIRUS OR ANY OTHER IDENTIFIED CAUSATIVE AGENT OF AIDS. (Section 20.1 of P.A. 85-677 and 85-579, effective September 21, 1987.) (See Section 697.160.)
  - 6) WHEN A HEALTH CARE PROVIDER OR EMPLOYEE OF A HEALTH FACILITY, OR A FIREFIGHTER OR AN EMT-A OR AN EMT-I, IS INVOLVED IN AN ACCIDENTAL DIRECT SKIN OR MUCOUS MEMBRANCE CONTACT WITH THE BLOOD OR BODILY FLUIDS OF AN INDIVIDUAL WHICH IS OF A NATURE THAT MAY TRANSMIT HIV, AS DETERMINED BY A PHYSICIAN IN HIS MEDICAL JUDGMENT, SHOULD SUCH TEST PROVE TO BE POSITIVE, THE PATIENT SHALL BE PROVIDED APPROPRIATE COUNSELING CONSISTENT WITH THIS ACT (Section 7 of the AIDS Confidentiality Act).
  - 7) WHEN IN THE JUDGMENT OF THE PHYSICIAN, SUCH TESTING IS MEDICALLY INDICATED TO PROVIDE APPROPRIATE DIAGNOSIS AND TREATMENT TO THE SUBJECT OF THE TEST, PROVIDED THAT THE SUBJECT OF THE TEST HAS OTHERWISE PROVIDED HIS OR HER CONSENT TO SUCH PHYSICIAN FOR MEDICAL TREATMENT. (Section 8 of the AIDS Confidentiality Act).
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 697.130 Anonymous Testing
- ANY PERSON UPON WHOM AN HIV TEST IS PERFORMED SHALL HAVE THE RIGHT, under all circumstances except those which are specifically mentioned below, TO REQUEST ANONYMITY AND TO PROVIDE WRITTEN INFORMED CONSENT BY USING A CODED SYSTEM THAT DOES NOT LINK INDIVIDUAL IDENTITY WITH THE REQUEST OR THE RESULT EXCEPT WHEN WRITTEN INFORMED CONSENT IS NOT REQUIRED BY LAW as specified in Section 697.120. (Section 6 of the AIDS Confidentiality Act.) Any anonymous testing system adopted by the health care provider ordering the test must ensure that the correct test results are transmitted by the persons conducting the laboratory tests to the proper physician, and that the correct test results are given to the correct patient. When a test subject does not have the right to request anonymity, the test subject may request that the blood sample be labeled in such a manner as to prevent persons from learning the identity of the test subject unless such persons are authorized to receive such information pursuant to Section 697.140 of this Part.

- a) If anonymous testing is requested, the physician shall assign to such

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person a unique number or notation, which shall be used by the person to sign the written informed consent in lieu of the person's name. The blood sample for testing shall be labeled with the physician's name and the unique number or notation assigned to the patient for the purpose of receiving the test results. Unless otherwise authorized by the patient, any record of the test result shall be maintained in a manner identifying the record only by its unique number or notation.

b) Anonymous testing shall not be permitted under the following circumstances:

- 1) When identification of the test subject is permitted or required in order to comply with the provisions of Section 697.140(a)(3) or (c) of this Part,
- 2) If the test is conducted to satisfy the requirements of a marriage application. (See Section 697.150 of this Part.) In such a case, the test subject may only request that the blood sample be labeled in such a manner as to prevent persons other than the physician from learning the identity of the test subject,
- 3) If the test is performed in order to determine eligibility as a donor or acceptability of a donation of blood, plasma, semen or other human tissue, or
- 4) If the test is conducted for the purpose of donating blood by a licensed blood bank.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 697.140 Nondisclosure of the Identity of a Person Tested or Test Results

- a) NO PERSON MAY DISCLOSE OR BE COMPELLED TO DISCLOSE THE IDENTITY OF ANY PERSON UPON WHOM A TEST IS PERFORMED, OR THE RESULTS OF SUCH A TEST IN A MANNER WHICH PERMITS IDENTIFICATION OF THE SUBJECT OF THE TEST, EXCEPT TO THE FOLLOWING PERSONS:

- 1) THE SUBJECT OF THE TEST OR THE SUBJECT'S LEGALLY AUTHORIZED REPRESENTATIVE;
- 2) ANY PERSON DESIGNATED IN A LEGALLY EFFECTIVE RELEASE (i.e., a written release signed by the test subject) OF THE TEST RESULTS EXECUTED BY THE SUBJECT OF THE TEST OR THE SUBJECT'S LEGALLY AUTHORIZED REPRESENTATIVE;

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- 3) AN AUTHORIZED AGENT OR EMPLOYEE OF A HEALTH FACILITY OR HEALTH CARE PROVIDER or referring, treating or consulting physician of the test subject, IF THE HEALTH FACILITY OR HEALTH CARE PROVIDER ITSELF IS AUTHORIZED TO OBTAIN THE TEST RESULTS, THE AGENT OR EMPLOYEE or referring, treating or consulting physician of the test subject PROVIDES PATIENT CARE OR HANDLES OR PROCESSES SPECIMENS OF BODY FLUIDS OR TISSUES, AND THE AGENT OR EMPLOYEE or referring, treating or consulting physician of the test subject HAS A NEED TO KNOW SUCH INFORMATION. AN AUTHORIZED AGENT OR EMPLOYEE OF A HEALTH FACILITY OR HEALTH CARE PROVIDER or referring, treating or consulting physician has a NEED TO KNOW the identity of the patient or the test results revealing the identity of the patient under the following circumstances:

- A) When involved in direct patient care or handling or processing blood or bodily fluids for which this information is necessary in order to meet the medical needs of the patient, as certified by a physician, or
- B) When involved in an accidental direct skin or mucous membrane contact with the blood or bodily fluids of a patient which is of a nature likely to transmit HIV, such as needle stick or percutaneous exposure, as certified by a physician.

- 4) THE DEPARTMENT or the Local Health Authority, IN ACCORDANCE WITH RULES FOR REPORTING AND CONTROLLING THE SPREAD OF DISEASE, AS OTHERWISE PROVIDED BY STATE LAW (See 77 Ill. Adm. Code 690 and 693.);

- 5) A HEALTH FACILITY OR HEALTH CARE PROVIDER WHICH PROCURES, PROCESSES, DISTRIBUTES OR USES:

- A) A HUMAN BODY PART FROM A DECEASED PERSON WITH RESPECT TO MEDICAL INFORMATION REGARDING THE PERSON; OR
- B) SEMEN PROVIDED PRIOR TO SEPTEMBER 21, 1987, FOR THE PURPOSE OF ARTIFICIAL INSEMINATION;

- 6) HEALTH FACILITY STAFF COMMITTEES FOR THE PURPOSES OF CONDUCTING PROGRAM MONITORING, PROGRAM EVALUATION OR SERVICE REVIEWS;

- 7) A PERSON ALLOWED ACCESS TO SAID RECORD BY A COURT ORDER WHICH IS ISSUED IN COMPLIANCE WITH THE PROVISIONS OF Section 9(g) of the AIDS Confidentiality Act;

- 8) A county clerk shall not be informed of the test results of



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applicants for marriage licenses. County clerks shall only be informed by way of a physician's certificate that the required tests have been performed and the parties have been informed of the results in accordance with the provisions of Section 697.150 of this Part;

- 9) A school principal in accordance with the provisions of Section 697.400 of this Part.

10) ANY HEALTH CARE PROVIDER OR EMPLOYEE OF A HEALTH FACILITY, AND ANY FIREFIGHTER OR ANY EMT-A OR ANY EMT-I, INVOLVED IN AN ACCIDENTAL DIRECT SKIN OR MUCOUS MEMBRANE CONTACT WITH THE BLOOD OR BODILY FLUIDS OF AN INDIVIDUAL WHICH IS OF A NATURE THAT MAY TRANSMIT HIV, AS DETERMINED BY A PHYSICIAN IN HIS MEDICAL JUDGMENT. (Section 9(h) of the AIDS Confidentiality Act).

- b) HIV test results may be disclosed to health care providers and researchers when done in a manner which does not reveal the identity of the subject of the test. Any test results which cannot be revealed without identifying the subject of the test shall only be disclosed in accordance with the provisions of Subsections 697.140 (a) (1) through (9) specified above. The Department shall disclose test results and demographic data without identifying information to researchers in accordance with Section 697.220.

- c) The written informed consent form and HIV test results shall be maintained in a confidential manner which allows disclosure only to persons authorized to receive the information under the provisions of subsections (a)(1) through (9) specified above.

- 1) The written informed consent form and HIV test results may be maintained in a patient's medical record provided these materials are maintained in such a manner that does not permit disclosure to persons who may review the patient's medical record, but are not authorized to receive this information.

- 2) Any procedure utilized to maintain this information in a patient's medical record must be uniform and consistent for all patient records, in order to prevent revealing the existence or contents of this information. A procedure is uniform if medical records containing written informed consent forms and HIV test results cannot be distinguished from medical records which do not contain such information, unless the medical record is accessed and read. An example of such a procedure is one which establishes a segregated or separate confidential sealed portion of the medical record in every patient record with access restricted to persons authorized to receive the contents.

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- 1) NOTHING IS THIS ACT SHALL BE CONSTRUED TO IMPOSE CIVIL LIABILITY OR CRIMINAL SANCTION FOR DISCLOSURE OF A TEST RESULT IN ACCORDANCE WITH ANY REPORTING REQUIREMENT OF THE DEPARTMENT FOR A DIAGNOSED CASE OF HIV INFECTION, AIDS OR A RELATED CONDITION.

- 2) NOTHING IN THIS ACT SHALL BE CONSTRUED TO IMPOSE CIVIL OR CRIMINAL SANCTION FOR PERFORMING A TEST WITHOUT WRITTEN INFORMED CONSENT PURSUANT TO THE PROVISIONS OF SUBSECTION (B) OF SECTION 7 OF THE AIDS CONFIDENTIALITY ACT. (Section 15 of the AIDS Confidentiality Act.)

- 3) THE INTENTIONAL OR RECKLESS VIOLATION OF THE AIDS CONFIDENTIALITY ACT OR ANY REGULATION ISSUED HEREUNDER SHALL CONSTITUTE A CLASS B MISDEMEANOR. (Section 12 of the AIDS Confidentiality Act.)

- e) Sections 697.110, 697.120, 697.130 and 697.140 SHALL NOT APPLY TO eligibility and coverage requirements established by A HEALTH MAINTENANCE ORGANIZATION NOR TO ANY INSURANCE COMPANY, FRATERNAL BENEFIT SOCIETY, OR OTHER INSURER REGULATED UNDER THE "ILLINOIS INSURANCE CODE," AS AMENDED. (Section 15.1 of the AIDS Confidentiality Act.)

(Section: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: MISCELLANEOUS PROVISIONS

## Section 697.400 Notification of School Principals

- a) WHENEVER A CHILD OF SCHOOL AGE IS REPORTED TO THE DEPARTMENT OR TO A LOCAL HEALTH DEPARTMENT AS HAVING BEEN DIAGNOSED AS HAVING AIDS OR ARC OR AS HAVING BEEN SHOWN TO HAVE BEEN EXPOSED TO HUMAN IMMUNE DEFICIENCY VIRUS (HIV) (OR ANY OTHER IDENTIFIED CAUSATIVE AGENT OF AIDS) BY TESTING POSITIVE ON A WESTERN BLOT ASSAY OR MORE RELIABLE TEST as specified in Section 697.100, SUCH DEPARTMENT SHALL GIVE PROMPT (within three working days) AND CONFIDENTIAL NOTICE OF THE IDENTITY OF THE CHILD TO THE PRINCIPAL OF THE SCHOOL IN WHICH THE CHILD IS ENROLLED. IF THE CHILD IS ENROLLED IN A PUBLIC SCHOOL, THE PRINCIPAL SHALL DISCLOSE THE IDENTITY OF THE CHILD TO THE SUPERINTENDENT OF THE SCHOOL DISTRICT IN WHICH THE CHILD RESIDES. (Section 22.12a of "AN ACT in relation to the prevention of certain communicable diseases") (111. Rev. Stat. 1987, ch. 111 1/2, par. 22.11 et seq., as amended by Public Act 85-1399, effective September 2, 1988). School age is defined as between ages 5 and 21 by Section 10-20.12 of the School Code (111. Rev. Stat. 1987, ch. 122, par. 10-20.12) and between ages 3 and 21 for handicapped

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children by the Education For All Handicapped Children Act (20 U.S.C. Section 1412 (1)(B)). Diagnosed cases and laboratory results are reported to the Department in accordance with the provisions of the "Control of Sexually Transmissible Diseases Code" (77 Ill. Adm. Code 693). If the child resides in a county or city governed by a full-time Local Health Authority, such notification shall be the responsibility of the Local Health Authority. In all other cases, such notification shall be the responsibility of the Department. The Local Health Authority or the Department shall offer assistance to the principal concerning HIV, the availability of counseling and training, and guidelines for management of the child in the classroom.

- b) UPON RECEIPT OF SUCH NOTICE, THE PRINCIPAL MAY, AS NECESSARY such as when a student needs medical attention or must take medication during school attendance, or when the student's clinical condition necessitates other such services, DISCLOSE THE IDENTITY OF AN INFECTED CHILD TO THE SCHOOL NURSE AT THAT SCHOOL, AND THE CLASSROOM TEACHERS IN WHOSE CLASSES THE CHILD IS ENROLLED, and THOSE PERSONS WHO, PURSUANT TO FEDERAL OR STATE LAW, ARE REQUIRED TO DECIDE THE PLACEMENT OR EDUCATIONAL PROGRAM OF THE CHILD. IN ADDITION, THE PRINCIPAL MAY INFORM SUCH OTHER PERSONS AS MAY BE NECESSARY in the opinion of the principal THAT AN INFECTED CHILD IS ENROLLED AT THAT SCHOOL SO LONG AS THE CHILD'S IDENTITY IS NOT REVEALED. (Section 22.12a of "AN ACT in relation to the prevention of certain communicable diseases") (111. Rev. Stat. 1987, ch. 111 1/2, par. 22.11 et seq.)

- c) No person to whom the child's identity is disclosed may disclose such information to any other person except as permitted by law (Sections 9 and 10 of the AIDS Confidentiality Act).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Appendix B Statutory and Regulatory References to AIDS

- a) The following is a list of statutory and regulatory references found in Illinois:

- 1) Sections, 5-1.1, 5-2 and 5-5.5 of the Illinois Public Aid Code (111. Rev. Stat. 1987, ch. 23, pars. 5-1.1, 5-2 and 5-5.5, as amended by P.A. 85-1206, effective August 30, 1988)
- 2) Section 1005-5-3 of the Unified Code of Corrections (111. Rev. Stat. 1987, ch. 38, par. 1005-5-3)
- 3) Section 204 of the Illinois Marriage and Dissolution of Marriage Act

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- (111. Rev. Stat. 1987, ch. 40, par. 204)  
(See 77 Ill. Adm. Code 693 and 697 for Department rules.)
- 4) Section 22.04 of "AN ACT in relation to public health" (111. Rev. Stat. 1987, ch. 111 1/2, par. 22.04).
- 5) Section 22.12a of "AN ACT in relation to the prevention of certain communicable diseases"  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 22.12a, as amended by P.A. 85-1399, effective September 2, 1988)  
(See 77 Ill. Adm. Code 697.400 for Department rules.)
- 6) Section 308 of the Uniform Anatomical Gift Act  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 308)
- 7) Sections 147.08 and 152.2 of the Hospital Licensing Act  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 141 et seq.)  
(See 77 Ill. Adm. Code 250 for Department rules.)
- 8) Section 604-101, 607-102 and 607-106 of the Illinois Blood Bank Act  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 601-101 et seq.)  
(See 77 Ill. Adm. Code 450 and 460 for Department rules.)
- 9) Section 620-3.1 of The Blood Labeling Act  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 6201 et seq.)  
(See 77 Ill. Adm. Code 450 and 460 for Department rules.)
- 10) Section 1162 of the Illinois Health Facilities Planning Act  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 1151 et seq.)  
(See 77 Ill. Adm. Code 1110 for Department rules.)
- 11) Sections 2.04 and 3 of "AN ACT concerning certain rights of medical patients"  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 5401 et seq.)  
(See 77 Ill. Adm. Code 697.)
- 12) Section 6 of the Illinois Health Statistics Act  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 5606)
- 13) Section 4-101 of the Illinois Alcoholism and other Drug Dependency Act  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 6354-1, as amended by P.A. 85-1205, effective August 30, 1988)
- 14) AIDS Registry Act  
(111. Rev. Stat. 1987, ch. 111 1/2, par. 7357 et seq., as amended



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by P.A. 85-1248, effective August 30, 1988)  
(See 77 Ill. Adm. Code 697, Subpart C for Department rules.)

- 15) AIDS Confidentiality Act  
(Ill. Rev. Stat. 1987, ch. 111 1/2, par 7301 et seq., as amended  
by P.A. 85-1399, effective September 2, 1988 and P.A. 85-1248,  
effective August 30, 1988)  
(See 77 Ill. Adm. Code 697 for Department rules.)
- 16) Illinois Sexually Transmissible Disease Control Act  
(Ill. Rev. Stat. 1987, ch. 111 1/2, par 7401 et seq.)  
(See 77 Ill. Adm. Code 693 for Department rules.)
- 17) Section 863 of the Critical Health Problems and Comprehensive  
Health Education Act  
(Ill. Rev. Stat. 1987, ch. 122, par. 863)
- 18) Sections 10-22.39, 27-9.1, 27-9.2 and 34-18.7 of The School Code  
(Ill. Rev. Stat. 1987, ch. 122, pars. 10-22.39, 27-9.1, 27-9.2  
and 34-18.7)
- 19) Section 21 of "AN ACT in relation to communicable disease  
reports"  
(Ill. Rev. Stat. 1987, ch. 126, par. 21)  
(See 77 Ill. Adm. Code 690 for Department rules.)
- 20) Sections 55, 55.11, 55.41, 55.45 of the Civil Administrative  
Code of Illinois  
(Ill. Rev. Stat. 1987, ch. 127, par. 55 et seq., as amended by  
P.A. 85-1248, effective August 30, 1988.)  
(See 77 Ill. Adm. Code 693 and 697 for Department rules.)
- b) Statutory materials may be obtained from the Index Department of the  
Secretary of State's Office and will be compiled in the compilation  
known as the Illinois Revised Statutes.
- c) Regulatory materials may be obtained from the Administrative Code  
Division of the Secretary of State's Office or the promulgating  
agency.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTS1) Heading of Part:

Long-Term Care for Under Age 22

2) Code Citation:

77 Ill. Adm. Code 390

3) Section Numbers:

390.110, 390.120, 390.130, 390.140,  
390.150, 390.160, 390.165, 390.170,  
390.175, 390.180, 390.190, 390.200,  
390.210, 390.220, 390.230, 390.240,  
390.250, 390.260, 390.270, 390.272,  
390.274, 390.276

390.277  
390.278, 390.280, 390.282, 390.284,  
390.286, 390.288, 390.290, 390.300,  
390.310, 390.320, 390.330, 390.340,  
390.500, 390.610, 390.620, 390.630,  
390.640, 390.650, 390.660, 390.670  
390.675

390.680

390.690, 390.700, 390.810, 390.820,  
390.830, 390.1010, 390.1020, 390.1030  
390.1035

390.1040, 390.1050, 390.1060, 390.1070,  
390.1080, 390.1090, 390.1100, 390.1110,  
390.1120, 390.1310, 390.1320, 390.1330,  
390.1410, 390.1420, 390.1430, 390.1440,  
390.1450, 390.1610, 390.1620, 390.1630,  
390.1640, 390.1650, 390.1660, 390.1670,  
390.1680, 390.1690, 390.1810, 390.1820,  
390.1830, 390.1840, 390.1850, 390.1860,  
390.1870, 390.1880, 390.1890, 390.1900,  
390.1910, 390.1920, 390.2010, 390.2020,  
390.2030, 390.2210, 390.2220, 390.2230,  
390.2410, 390.2420, 390.2430, 390.2440,  
390.2610, 390.2620, 390.2630, 390.2640,  
390.2650, 390.2660, 390.2670, 390.2680,  
390.2690, 390.2700, 390.2710, 390.2720,  
390.2730, 390.2740, 390.2750, 390.2760,

Proposed Action:

Amendments  
Amendments  
Amendments  
Amendments  
Amendments

New Section

Amendments

Amendments

Amendments

Amendments

New Section

Repeal, New Section

Amendments

Amendments

New Section

Amendments

Amendments

Amendments

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Amendments

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Section Numbers:

390.2970, 390.2980, 390.2990, 390.3000  
 Amendments  
 390.3010, 390.3020, 390.3030, 390.3040  
 Amendments  
 390.3210, 390.3220, 390.3230, 390.3240  
 Amendments  
 390.3250, 390.3260, 390.3270, 390.3280  
 Amendments  
 390.3290, 390.3300, 390.3310, 390.3320  
 Amendments  
 390.3330, 390.3350

Proposed Action:

Amendments  
 Amendments  
 Amendments  
 Amendments  
 Amendments

4) Statutory Authority:

Nursing Home Care Act [Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq., as amended by Public Act 85-968 (Senate Bill 1322), effective December 9, 1987, Public Act 85-1183 (House Bill 4172), effective August 13, 1988, and Public Act 85-1378 (Senate Bill 2201), effective September 1, 1988]

5) A Complete Description of the Subjects and Issues Involved:

The Department is proposing the permanent adoption of amendments which were adopted on an emergency basis effective October 24, 1988. These proposed amendments will also make other changes to reflect recent statutory changes and to clarify various provisions of the rules. In addition, these proposed amendments will update statutory references and make a number of non-substantive changes in the other provisions of the rules. The specific changes included in these proposed amendments are described here.

Emergency Changes

The most significant emergency changes which are included in these proposed amendments are the result of Public Act 85-1378 (Senate Bill 2201), which took effect on September 1, 1988. This legislation amends the Nursing Home Care Act to eliminate the lowest level of violations, level "C" violations. This level of violations is replaced with a procedure for the issuance of administrative warnings. Facilities will not be required to submit a plan of correction in response to an administrative warning, but will be responsible for correction of the condition.

To implement this change, the Department is proposing the following actions which were adopted on an emergency basis effective October 24, 1988. The Notice of Emergency Amendments appeared in the Illinois Register on November 14, 1988, at 12 Ill. Reg. 18243.

1. Deleting all of the current designations of level "C" violations from the entire text of the rules.

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## NOTICE OF PROPOSED AMENDMENTS

2. Expanding the provisions in Section 390.272 concerning the determination to issue a notice of violation to also include administrative warnings.
3. Eliminating the language concerning level "C" violations in Section 390.274 which concerns the determination of the level of a violation.
4. Adding a new Section 390.277 to provide procedures for the issuance of administrative warnings.
5. Eliminating the provisions concerning the assessment of penalties for ten or more uncorrected level "C" violations from Section 390.282(e).
6. Adding a definition of "administrative warning" and deleting the definition of "type C violation" in Section 390.330.

Additional statutory changes included in Public Act 85-1378, and changes included in Public Act 85-1183 (House Bill 4172), which took effect on August 13, 1988, were also adopted on an emergency basis and are included in these proposed amendments. These changes include amendments to provisions concerning:

1. Submission of ownership information [Section 390.250(a)].
2. Contents of the quarterly list of facilities against which the Department is taking some action [Section 390.290(a)].
3. Basis and procedures for involuntary transfer or discharge [Section 390.3300(c)].
4. Procedure for hearings requested by persons who file complaints against a facility [Section 390.3310(j)].

Additional Statutory Changes

Additional statutory changes included in Public Act 85-968 (Senate Bill 1322), which took effect on December 9, 1987, are also being implemented in these proposed amendments. These changes include amendments to reflect the statutory provisions concerning the length of the license period [Section 390.110(b)] and the appointment of monitors [Section 390.270(a)].

In addition, repeal of Sections 390.260(d) and (g) is being proposed, since the parallel sections of the statute, Sections 3-314 and 3-317, were repealed by Public Act 83-1530, which became effective July 1, 1985. Repeal of these provisions of the rules will be consistent with the statute.



Physical Examinations and Tuberculin Skin Tests

Changes in Sections 390.670 and 390.1030 and the addition of new Sections 390.675 and 390.1035 are being proposed to clarify the rules on employee physical examinations and tuberculin skin tests for employees and residents. The changes will eliminate the requirement for annual physical examinations for employees, since these examinations are not effective in protecting the health of the employees or residents. The provisions concerning the initial physical examination of employees are being separated into the new Section 390.675 and the procedures for conducting tuberculin skin tests are being separated into the new Section 390.1035. Section 390.1030, which concerns medical care for residents, is being amended to reference the tuberculin test procedures which are being relocated to Section 390.1035.

Additional Substantive Changes

The definition of "qualified mental retardation professional" in Section 390.330 is being amended to conform to recent changes in the rules of the Health Care Financing Administration governing Medicaid program certification of Intermediate Care Facilities for the Mentally Retarded (42 CFR 483). The changes in these federal rules were adopted effective October 1, 1988. The proposed amendments to this definition will insure that the definition is consistent with the federal rules.

The definition of a utensil sanitizer in Section 390.330 is being replaced with a definition of sanitation to include chemical, as well as steam sanitization.

Shower stall curb requirements in Section 390.2960(e)(5) are being eliminated as no longer necessary. These changes will insure that the rules reflect current enforcement policies of the Department, since numerous waivers have been granted from these requirements. The definition of safety device in Section 390.330 is being revised to eliminate the reference to a minimum width of six inches in the example of a wide band which is used as a safety device. The change will clarify the definition.

Reference Corrections and Updates

Throughout the text of these rules, references to the Nursing Home Care Act are being updated. These changes reflect the changes in the Act and the latest edition of the Illinois Revised Statutes.

Section 390.340, which contains a list of all of the materials incorporated in these rules is being updated. Statutory references in this Section have been corrected and updated.

References to the Capital Development Board's rules on handicapped accessibility to buildings are being updated. The title and content of these rules was recently changed based on a comprehensive revision of the statute which authorized the Board to adopt these rules. These references are being updated in Sections 390.340(a)(4)(C), 390.2620(a)(1)(B), 390.2700(a)(6), 390.2700(b)(4), 390.2920(f)(2), 390.3000(b)(1), and 390.3000(b)(2).

References to various units of the Department which had responsibility for the licensure of alcoholism treatment programs are being updated in Section 390.300. As amended, these provisions will refer to the Department of Alcoholism and Substance Abuse which assumed responsibility for the licensure of alcoholism treatment programs in July 1988.

Additional Editorial Changes

The proposed amendments eliminate the use of the phrase "his/her" throughout the rules. The elimination of this phrase is accomplished by rephrasing the provisions in the plural, rather than the singular, or by replacing the pronoun with the subject, such as "resident's" or "employee's." The term "etc." is also eliminated throughout the rules. This term is usually unnecessary and may cause confusion by implying that the Department may impose additional requirements.

The proposed amendments also eliminate the use of "(s)," "(es)," and "(ies)" at the end of words to indicate singular or plural. These changes should clarify the application of the provisions. The phrase "and/or" is also eliminated in the proposed amendments. The proposed amendments clarify the provisions which use this term by clearly indicating whether either or both is intended. The proposed amendments also revise the use of numbers throughout the rules for consistency. Numbers of ten or less are written out in the rules, while numbers greater than ten are indicated by digits. The use of both forms of numbers at each occurrence is eliminated as unnecessary.

The Department believes that there will be, little, if any, economic effect of these proposed amendments on the regulated public. The elimination of some requirements may reduce costs for some regulated facilities, although such reductions are likely to be minimal.

The Department anticipates that the amendments will be adopted prior to the expiration of the emergency amendments on March 24, 1989.

- 6) Will these Proposed Amendments Replace an Emergency Rule Currently in Effect? Yes.

These proposed amendments include emergency amendments which were adopted

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTS

effective October 24, 1988. The Notice of Emergency Amendments appeared in the Illinois Register on November 14, 1988, at 12 Ill. Reg. 18243.

- 7) Does this Rulemaking contain an Automatic Repeal Date? No.
- 8) Do these Proposed Amendments Contain Incorporations By Reference? No.
- 9) Are there any other Proposed Amendments Pending on this Part? No.
- 10) Statement of Statewide Policy Objectives:  
This rulemaking neither creates nor expands a state mandate.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this Proposed Rulemaking:

Interested persons may present their comments concerning these rules by writing to Robert John Kane, Division of Governmental Affairs, Illinois Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761, within 45 days after this edition of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Administrative Procedure Act, any small business may present their comments in writing to Robert John Kane at the above address.

Any small business (as defined in Section 3.10 of the Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

- 12) Initial Regulatory Flexibility Analysis:

A) Date Rule was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

- B) Type of Small Businesses Affected:

Long term care facilities

- C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

No additional reporting, bookkeeping or other procedures are required for compliance.

- D) Types of Professional Skills Necessary for Compliance:

No additional professional skills are necessary for compliance.

The full text of the Proposed Amendments begins on the next page:



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER c: LONG-TERM CARE FACILITIES

## PART 390

LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
390.110	General Requirements
390.120	Application for License
390.130	Licenses
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
390.160	Issuance of a Renewal License
390.165	Criteria for Adverse License Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.190	Experimental Program Conflicting With Requirements
390.200	Inspections, Surveys, Evaluations and Consultation
390.210	Filing an Annual Attested Financial Statement
390.220	Information to be Made Available to the Public by the Department
390.230	Information to be Made Available to the Public By the Licensee
390.240	Municipal Licensing
390.250	Ownership Disclosure
390.260	Issuance of Conditional Licenses
390.270	Monitor and Receivership
390.272	Determination to Issue a Notice of Violation or Administrative Warning
390.274	Determination of the Level of a Violation
390.276	Notice of Violation
390.277	Administrative Warning
390.278	Plans of Correction
390.280	Reports of Correction
390.282	Conditions for Assessment of Penalties
390.284	Calculation of Penalties
390.286	Determination to Assess Penalties
390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators
390.300	Alcoholism Treatment Programs in Long-Term Care Facilities
390.310	Department May Survey Facilities Formerly Licensed
390.320	Waivers
390.330	Definitions
390.340	Incorporated and Referenced Materials

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## SUBPART B: ADMINISTRATION

390.500 Administrator

## SUBPART C: POLICIES

390.610 Management Policies  
 390.620 Resident Care Policies  
 390.630 Admission and Discharge Policies  
 390.640 Contract Between Resident and Facility  
 390.650 Residents' Advisory Council  
 390.660 General Policies  
 390.670 Personnel Policies  
 390.675 Initial Health Evaluation for Employees  
 390.680 Child Care/Habilitation Aides  
~~Nurse Aide/Orderly Training Program~~  
 390.690 Disaster Preparedness  
 390.700 Serious Incidents and Accidents

## SUBPART D: PERSONNEL

390.810 General  
 390.820 Categories of Personnel  
 390.830 Consultation Services

## SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

390.1010 Service Programs  
 390.1020 Medical Services  
 390.1030 Physician Services  
 390.1035 Tuberculin Skin Test Procedures  
 390.1040 Nursing Services  
 390.1050 Dental Care Services  
 390.1060 Physical and Occupational Therapy Services  
 390.1070 Psychological Services  
 390.1080 Social Services  
 390.1090 Speech Pathology and Audiology Services  
 390.1100 Recreational and Activity Services  
 390.1110 Educational Services  
 390.1120 Work Activity and Prevocational Training Services

SUBPART F: RESTRAINTS AND SAFETY DEVICES,  
BEHAVIOR MANAGEMENT, AND BEHAVIOR EMERGENCIES

390.1310 Restraints and Safety Devices  
 390.1320 Behavior Management  
 390.1330 Behavior Emergencies

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## SUBPART G: MEDICATIONS

390.1410  
390.1420  
390.1430  
390.1440  
390.1450

Medication Policies and Procedures  
Conformance with Physician's Orders  
Administration of Medication  
Labeling and Storage of Medications  
Control of Narcotics and Legend Drugs

## SUBPART H: RESIDENT AND FACILITY RECORDS

390.1610  
390.1620  
390.1630  
390.1640  
390.1650  
390.1660  
390.1670  
390.1680  
390.1690

Resident Record Requirements  
Content of Medical Records  
Confidentiality of Resident's Records  
Records Pertaining to Residents' Property  
Retention and Transfer of Resident Records  
Other Resident Record Requirements  
Staff Responsibility for Medical Records  
Retention of Facility Records  
Other Facility Record Requirements

## SUBPART I: FOOD SERVICE

390.1810  
390.1820  
390.1830  
390.1840  
390.1850  
390.1860  
390.1870  
390.1880  
390.1890  
390.1900  
390.1910  
390.1920

Director of Food Services  
Dietary Staff in Addition to Director of Food Services  
Hygiene of Dietary Staff  
Diet Orders  
Adequacy of Diet and Meal Pattern ~~(A-B)~~  
Infant and Therapeutic Diets  
Scheduling Meals  
Menu Planning  
Food Preparation and Service  
Preparation of Infant Formula  
Food Handling Sanitation  
Kitchen Equipment, Utensils, and Supplies

## SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

390.2010  
390.2020  
390.2030

Maintenance  
Housekeeping  
Laundry Services

## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

390.2210  
390.2220  
390.2230

Furnishings  
Equipment and Supplies  
Sterilization of Supplies and Equipment

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## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

390.2410  
390.2420  
390.2430  
390.2440

Codes  
Water Supply  
Sewage Disposal  
Plumbing

## SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

390.2610  
390.2620  
390.2630  
390.2640  
390.2650  
390.2660  
390.2670  
390.2680  
390.2690  
390.2700  
390.2710  
390.2720  
390.2730  
390.2740

Applicability of these Standards  
Codes and Standards  
Preparation of Drawings and Specifications  
Site  
Administration and Public Areas  
Nursing Unit  
Dining, Play, Activity/Program Room ~~(A)~~  
Therapy and Personal Care  
Service Departments  
General Building Requirements ~~Building General~~  
Structural  
Mechanical Systems  
Plumbing Systems  
Electrical Systems

## SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

390.2910  
390.2920  
390.2930  
390.2940  
390.2950  
390.2960  
390.2970  
390.2980  
390.2990  
390.3000  
390.3010  
390.3020  
390.3030  
390.3040

Applicability  
Codes and Standards  
Preparation of Drawings and Specifications  
Site  
Administration and Public Areas  
Nursing Unit  
Play, Dining, Activity/Program Room ~~(A)~~  
Treatment and Personal Care  
Service Department  
General Building Requirements ~~Building General~~  
Structural  
Mechanical Systems  
Plumbing Systems  
Electrical Requirements

## SUBPART O: RESIDENT'S RIGHTS

390.3210  
390.3220  
390.3230  
390.3240

General  
Medical and Personal Care Program  
Restraints  
Abuse and Neglect



## DEPARTMENT OF PUBLIC HEALTH

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390.3250 Communication and Visitation  
 390.3260 Residents' Funds  
 390.3270 Residents' Advisory Council  
 390.3280 Contract With Facility  
 390.3290 Private Right of Action  
 390.3300 Transfer and/or Discharge  
 390.3310 Complaint Procedures  
 390.3320 Confidentiality  
 390.3330 Facility Implementation

## SUBPART P: DAY CARE PROGRAMS

390.3510 Day Care in Long-Term Care Facilities

APPENDIX A Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under ~~Twenty-two (22)~~ Years of Age  
 APPENDIX B Forms for Day Care in Long-Term Care Facilities  
 TABLE A Infant Feeding  
 TABLE B Daily Nutritional Requirements By Age Group  
 TABLE C Sound Transmissions Limitations  
 TABLE D Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age  
 TABLE E Sprinkler Requirements  
 TABLE F Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Adopted and authorized by the Nursing Home Care ~~Act~~ ~~of 1979~~ (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4151-101 et seq.)

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1,

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1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; amended at 13 Ill. Reg.       , effective       

NOTE: Italics and capitalization denote statutory language.

## SUBPART A: GENERAL PROVISIONS

Section 390.110 General Requirements

a) This Part applies ~~These Minimum Standards, Rules and Regulations~~ to the operator/licensee of facilities, or distinct parts thereof, that are to be licensed and classified to provide nursing care to persons under ~~twenty-two (22)~~ years of age. Any license issued and in effect prior to March 1, 1980, pursuant to the "Nursing homes, sheltered care homes, and homes for the aged Act" (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 35.16 et seq.) shall remain valid and subject to the terms and conditions of the "Nursing Home Care ~~Reform~~ Act ~~of 1979~~" (The Act) (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4151-101 et seq.) and all regulations promulgated thereunder until the expiration date shown on the face of such license.

b) The license issued to each operator/licensee shall designate the licensee's name, facility name, address, the classification by level of service authorized for that facility, the number of beds authorized for each level, the date the license was issued and the expiration date. Such licenses shall be issued for a period ~~not to exceed one (1) year~~ of NOT LESS THAN SIX MONTHS NOR MORE THAN 18 MONTHS. The Department will set the period of the license based on the license expiration dates of the facilities in the geographical area surrounding the facility IN ORDER TO DISTRIBUTE THE EXPIRATION DATES as evenly as possible THROUGHOUT THE CALENDAR YEAR. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-110)

c) An applicant may request that the license issued by the Department have distinct parts classified according to levels of services. The distinct part must satisfactorily meet the applicable physical plant standards based on a level of service classification sought for that distinct part. If necessary to protect the health, welfare and safety of residents in a distinct part requiring higher standards, the Department of Public Health (the Department) shall require compliance with whatever additional physical plant standards are necessary in any distinct part ~~to~~, to achieve this protection.

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## Section 390.110(c) (continued)

Administrative, supervisory, and other personnel may be shared by the entire facility, if so doing does not adversely affect meeting the total needs of the residents of the facility.

- d) THE OPERATOR MAY NOT ADMIT RESIDENTS IN EXCESS OF THE LICENSED CAPACITY OF THE FACILITY. ~~(See Section 390.200. Violations and Penalties)~~ (B, ~~C~~)

- e) A long-term care facility for persons under ~~twenty-two~~ ~~(22)~~ years of age licensed and classified under the Act shall not use in its title or description "Hospital", "Sanitarium", "Sanatorium", or any other word or description in its title or advertisements which indicates that a type of service is provided by the facility which the facility is not licensed to provide or, in fact, does not provide. ~~(C)~~

A long-term care facility for persons under ~~twenty-two~~ ~~(22)~~ years of age may use in its title or advertisement the words or description: "Nursing Home", "Intermediate Care", "Skilled Nursing Facility".

- f) Any person constructing or modifying a long-term care facility or portion thereof without obtaining the required permit from the Health Facilities Planning Board shall not be eligible to apply for licensure for that facility or portion thereof (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 1163.1). ~~(C)~~

- g) THE LICENSEE SHALL GIVE ~~NINETY~~ ~~(90)~~ DAYS NOTICE PRIOR TO VOLUNTARILY CLOSING A FACILITY OR CLOSING ANY PART OF A FACILITY, OR PRIOR TO CLOSING ANY PART OF A FACILITY IF CLOSING SUCH PART WILL REQUIRE THE TRANSFER OR DISCHARGE OF MORE THAN TEN PERCENT ~~(10%)~~ OF THE RESIDENTS. SUCH NOTICE SHALL BE GIVEN TO THE DEPARTMENT, TO ANY RESIDENTS WHO MUST BE TRANSFERRED OR DISCHARGED, TO THE RESIDENT'S REPRESENTATIVE, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE. NOTICE SHALL STATE THE PROPOSED DATE OF CLOSING AND THE REASON FOR CLOSING. THE LICENSEE SHALL OFFER TO ASSIST THE RESIDENT IN SECURING AN ALTERNATIVE PLACEMENT AND SHALL ADVISE THE RESIDENT ON AVAILABLE ALTERNATIVES. WHERE THE RESIDENT IS UNABLE TO CHOOSE AN ALTERNATE PLACEMENT AND IS NOT UNDER GUARDIANSHIP, THE DEPARTMENT SHALL BE NOTIFIED OF THE NEED FOR RELOCATION ASSISTANCE. THE FACILITY SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS UNTIL THE DATE OF CLOSING, INCLUDING THOSE RELATED TO TRANSFER OR DISCHARGE OF RESIDENTS. THE DEPARTMENT MAY PLACE A RELOCATION TEAM

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## Section 390.110(g) (continued)

IN THE FACILITY AS PROVIDED UNDER OF THE ACT. (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4151-101 et seq.) (A, B)

(Source: Amended at 13 Ill. Reg.           , effective           )

## Section 390.120 Application for License

- a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility, ~~and/or~~ or skilled nursing facility shall submit pre-application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The pre-application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications. ~~(C)~~

- b) A pre-application for a new facility shall be accompanied by a permit as required by the "Illinois Health Facilities Planning Act" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 1151 et seq.). ~~(C)~~

- c) APPLICATION FOR A LICENSE TO ESTABLISH OR OPERATE AN INTERMEDIATE CARE FACILITY, ~~AND/OR~~ OR SKILLED NURSING FACILITY SHALL BE MADE IN WRITING AND SUBMITTED, WITH OTHER SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE, ON FORMS PROVIDED BY THE DEPARTMENT.

- d) ALL APPLICATIONS, EXCEPT THOSE OF HOMES FOR THE AGED, SHALL BE ACCOMPANIED BY AN APPLICATION FEE OF ~~TWO HUNDRED~~ ~~(200)~~ DOLLARS. THE APPLICATION SHALL BE UNDER OATH AND THE SUBMISSION OF FALSE OR MISLEADING INFORMATION SHALL BE A CLASS A MISDEMEANOR. THE APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

- 1) THE NAME AND ADDRESS OF THE APPLICANT IF AN INDIVIDUAL, AND IF A FIRM, PARTNERSHIP, OR ASSOCIATION, OF EVERY MEMBER THEREOF, AND IN THE CASE OF A CORPORATION, THE NAME AND ADDRESS THEREOF AND OF ITS OFFICERS AND ITS REGISTERED AGENT, AND IN THE CASE OF A UNIT OF LOCAL GOVERNMENT, THE NAME AND ADDRESS OF ITS CHIEF EXECUTIVE OFFICER;
- 2) THE NAME AND LOCATION OF THE FACILITY FOR WHICH A LICENSE IS SOUGHT;



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## Section 390.120(d) (continued)

- 3) THE NAME OF THE PERSON OR PERSONS UNDER WHOSE MANAGEMENT OR SUPERVISION THE FACILITY WILL BE CONDUCTED;
- 4) THE NUMBER AND TYPE OF RESIDENTS FOR WHICH MAINTENANCE, PERSONAL CARE, OR NURSING IS TO BE PROVIDED; AND
- 5) SUCH INFORMATION RELATING TO THE NUMBER, EXPERIENCE, AND TRAINING OF THE EMPLOYEES OF THE FACILITY, ANY MANAGEMENT AGREEMENTS FOR THE OPERATION OF THE FACILITY, AND OF THE MORAL CHARACTER OF THE APPLICANT AND EMPLOYEES AS THE DEPARTMENT MAY DEEM NECESSARY. (111. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-103(2))

e)

- 1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold, or leased; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be. ~~(6)~~

- 2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases. ~~(6)~~

- f) EACH INITIAL APPLICATION SHALL BE ACCOMPANIED BY A FINANCIAL STATEMENT SETTING FORTH THE FINANCIAL CONDITION OF THE APPLICANT AND BY A STATEMENT FROM THE UNIT OF LOCAL GOVERNMENT HAVING ZONING JURISDICTION OVER THE FACILITY'S LOCATION STATING THAT THE LOCATION OF THE FACILITY IS NOT IN VIOLATION OF A ZONING ORDINANCE. AN INITIAL APPLICATION FOR A NEW FACILITY SHALL BE ACCOMPANIED BY A PERMIT AS REQUIRED BY THE "ILLINOIS HEALTH FACILITIES PLANNING ACT". AFTER THE APPLICATION IS APPROVED, THE APPLICANT SHALL ADVISE THE DEPARTMENT EVERY ~~6~~ SIX MONTHS OF ANY CHANGES IN THE INFORMATION ORIGINALLY PROVIDED IN THE APPLICATION. (111. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-103(2))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 390.130 Licensee

- a) The licensee is the corporate body, political subdivision, individual, or individuals responsible for the operation of the facility and upon whom rests the responsibility for meeting the licensing requirements. The licensee does not have to own the building being used.
- b) If the licensee does not own the building, a lease or management agreement between the licensee and the owner of the building is required. A copy of the lease or management agreement shall be furnished to the Department. The Department shall also be provided with a copy of all new lease agreements or any changes to existing agreements within ~~thirty~~ ~~(30)~~ days of the effective date of such changes. ~~(6)~~
- c) If the licensee is not a corporation or a political subdivision of the State of Illinois, each person responsible for the operation of the facility and upon whom rests the responsibility for meeting the licensing Minimum Standards, Rules and Regulations shall be at least ~~eighteen~~ ~~(18)~~ years of age. ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.140 Issuance of an Initial License for a New Facility

- a) UPON RECEIPT AND REVIEW OF AN APPLICATION FOR A LICENSE AND INSPECTION OF THE APPLICANT FACILITY, THE DIRECTOR SHALL ISSUE A PROBATIONARY LICENSE IF HE FINDS:

- 1) THE APPLICANT IS A PERSON RESPONSIBLE AND SUITABLE TO OPERATE OR TO DIRECT OR PARTICIPATE IN THE OPERATION OF A FACILITY BY VIRTUE OF FINANCIAL CAPACITY, APPROPRIATE BUSINESS OR PROFESSIONAL EXPERIENCE, A RECORD OF COMPLIANCE WITH LAWFUL ORDERS OF THE DEPARTMENT AND LACK OF REVOCATION OF A LICENSE DURING THE PREVIOUS FIVE ~~(5)~~ YEARS;
- 2) THE FACILITY IS UNDER THE SUPERVISION OF AN ADMINISTRATOR WHO IS LICENSED UNDER THE "NURSING HOME ADMINISTRATORS LICENSING AND DISCIPLINARY ACT" (111. Rev. Stat. ~~1981~~ 1987, ch. 111, pars. ~~3681-3681~~ 3651 et seq.) AS NOW OR HEREAFTER AMENDED; AND
- 3) THE FACILITY IS IN SUBSTANTIAL COMPLIANCE WITH THE ~~"NURSING HOME CARE REFORM"~~ ACT ~~OF 1979~~ AND THIS PART.

- b) THE DEPARTMENT WILL ISSUE A PROBATIONARY LICENSE FOR ~~ONE HUNDRED~~

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## Section 390.140(b) (continued)

- ~~TWENTY~~ ~~(120)~~ DAYS FROM DATE OF ISSUANCE.
- c) DURING THE ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAY PERIOD OF THE PROBATIONARY LICENSE, THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION OF THE APPLICANT WITHIN ~~THIRTY~~ ~~(30)~~ DAYS OF THE TERMINATION OF THE PROBATIONARY LICENSE TO DETERMINE WHETHER OF NOT THE APPLICANT THEN COMPLIES, AND IF NOT, WHETHER SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE. IF IN COMPLIANCE, THE PROBATIONARY LICENSE WILL BE REPLACED WITH A FULL STATUS LICENSE. IF NOT IN COMPLIANCE AND SATISFACTORY PROGRESS TOWARDS COMPLIANCE IS NOT BEING MADE, THE DEPARTMENT WILL ALLOW THE PROBATIONARY LICENSE TO EXPIRE.
- d) IF THE APPLICANT IS FOUND NOT TO BE IN COMPLIANCE BUT SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE, A SECOND PROBATIONARY LICENSE OF UP TO ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS MAY BE ISSUED. UNDER NO CONDITION MAY MORE THAN TWO ~~(2)~~ SUCCESSIVE PROBATIONARY LICENSES BE ISSUED.
- e) Prior to actual receipt by the operator of the license certificate, the operator may begin operation upon receipt of written approval by the Department.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.150 Issuance of an Initial License Due to a Change of Ownership

- a) UPON RECEIPT AND REVIEW OF AN APPLICATION FOR A LICENSE, THE DIRECTOR SHALL ISSUE A PROBATIONARY LICENSE IF HE FINDS:
- 1) THE APPLICANT IS A PERSON RESPONSIBLE AND SUITABLE TO OPERATE OR TO DIRECT OR TO PARTICIPATE IN THE OPERATION OF A FACILITY BY VIRTUE OF FINANCIAL CAPACITY, APPROPRIATE BUSINESS OR PROFESSIONAL EXPERIENCE, A RECORD OF COMPLIANCE WITH LAWFUL ORDERS OF THE DEPARTMENT AND LACK OF REVOCATION OF A LICENSE DURING THE PREVIOUS FIVE ~~(5)~~ YEARS;
  - 2) THE FACILITY IS UNDER THE SUPERVISION OF AN ADMINISTRATOR WHO IS LICENSED UNDER THIS "NURSING HOME ADMINISTRATOR'S LICENSING AND DISCIPLINARY ACT", ~~AS NOW OR HEREAFTER AMENDED~~; AND
  - 3) THE FACILITY IS IN SUBSTANTIAL COMPLIANCE WITH THE ~~"NURSING HOME CARE REFORM" ACT~~ ~~OF 1979~~ AND THIS PART.
- b) WHENEVER OWNERSHIP OF A FACILITY IS TRANSFERRED FROM THE PERSON NAMED

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## Section 390.150(b) (continued)

- IN A LICENSE TO ANY OTHER PERSON, THE TRANSFEREE MUST OBTAIN A NEW PROBATIONARY LICENSE. THE TRANSFEREE SHALL NOTIFY THE DEPARTMENT OF THE TRANSFER AND APPLY FOR A NEW LICENSE AT LEAST ~~THIRTY~~ ~~(30)~~ DAYS PRIOR TO FINAL TRANSFER. ~~(6)~~
- c) THE TRANSFEROR SHALL NOTIFY THE DEPARTMENT AT LEAST ~~THIRTY~~ ~~(30)~~ DAYS PRIOR TO FINAL TRANSFER. THE TRANSFEROR SHALL REMAIN RESPONSIBLE FOR THE OPERATION OF THE FACILITY UNTIL SUCH TIME AS THE LICENSE IS ISSUED TO THE NEW TRANSFEREE. ~~(6)~~
- d) THE LICENSE GRANTED TO THE TRANSFEREE SHALL BE SUBJECT TO ANY PLAN OF CORRECTION SUBMITTED BY THE PREVIOUS OWNER AND APPROVED BY THE DEPARTMENT AND ANY CONDITIONS CONTAINED IN A CONDITIONAL LICENSE ISSUED TO THE PREVIOUS OWNER. IF THERE ARE OUTSTANDING VIOLATIONS AND NO PLAN OF CORRECTION HAS BEEN SUBMITTED BY THE FACILITY AND APPROVED BY THE DEPARTMENT, THE DEPARTMENT MAY ISSUE A CONDITIONAL LICENSE AND PLAN OF CORRECTION AS PROVIDED IN SECTIONS 3-311 THROUGH 3-317 OF THE ~~"NURSING HOME CARE REFORM" ACT~~ ~~OF 1979~~ IN PLACE OF A PROBATIONARY LICENSE. ~~(6)~~
- e) THE TRANSFEROR SHALL REMAIN LIABLE FOR ALL PENALTIES ASSESSED AGAINST THE FACILITY WHICH ARE IMPOSED FOR VIOLATIONS OCCURRING PRIOR TO TRANSFER OF ~~OR~~ OWNERSHIP. ~~(6)~~
- f) THE DEPARTMENT WILL ISSUE A PROBATIONARY LICENSE FOR ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS FROM DATE OF ISSUANCE.
- g) DURING THE ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS OF THE PROBATIONARY LICENSE, THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION OF THE APPLICANT WITHIN ~~THIRTY~~ ~~(30)~~ DAYS OF THE TERMINATION OF THE PROBATIONARY LICENSE TO DETERMINE WHETHER OR NOT THE APPLICANT THEN COMPLIES, AND IF NOT, WHETHER SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE. IF IN COMPLIANCE, THE PROBATIONARY LICENSE WILL BE REPLACED WITH A FULL STATUS LICENSE. IF NOT IN COMPLIANCE AND SATISFACTORY PROGRESS TOWARD COMPLIANCE IS NOT BEING MADE, THE DEPARTMENT WILL ALLOW THE PROBATIONARY LICENSE TO EXPIRE.
- h) IF THE APPLICANT IS FOUND NOT TO BE IN COMPLIANCE BUT SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE, A SECOND PROBATIONARY LICENSE OF UP TO ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS MAY BE ISSUED. UNDER NO CONDITION MAY MORE THAN TWO ~~(2)~~ SUCCESSIVE PROBATIONARY LICENSES BE ISSUED.
- i) THE ISSUANCE DATE OF THE PROBATIONARY LICENSE TO THE NEW OWNER WILL BE THE DATE THE LAST LICENSURE REQUIREMENT IS MET AS DETERMINED BY



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## Section 390.150(j) (continued)

THE DEPARTMENT, PRIOR TO ACTUAL RECEIPT BY THE OPERATOR OF THE LICENSE CERTIFICATE, THE OPERATOR MAY BEGIN OPERATION UPON RECEIPT OF WRITTEN APPROVAL BY THE DEPARTMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.160 Issuance of a Renewal License

AT LEAST ~~ONE HUNDRED TWENTY~~ 120 DAYS, BUT NOT MORE THAN ~~ONE HUNDRED~~ FIFTY ~~150~~ DAYS, PRIOR TO LICENSE EXPIRATION, THE LICENSEE SHALL SUBMIT AN APPLICATION FOR RENEWAL OF THE LICENSE IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE DEPARTMENT REQUIRES. IF THE APPLICATION IS APPROVED, AND THE FACILITY IS IN COMPLIANCE WITH ALL OTHER LICENSE REQUIREMENTS, THE LICENSE SHALL BE RENEWED FOR AN ADDITIONAL ONE YEAR PERIOD. (See Section 390.240 for municipal licensing requirements.) ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.165 Criteria for Adverse Licensure Actions

- a) Adverse licensure actions are determinations to deny the issuance of an initial license, to deny the issuance of a renewal of a license, or to revoke the current license of a facility.
- b) A determination by the Director or his designee to take adverse licensure action against a facility shall be based on a finding that one or more of the following criteria are met:

- 1) The facility has SUBSTANTIALLY FAILED TO MEET ANY OF THE MINIMUM STANDARDS SET FORTH IN THE ACT OR THESE RULES. For purposes of this provision, substantial failure is a failure to meet the requirements of this Part which is other than a variance from strict and literal performance which results only in unimportant omissions or defects given the particular circumstances involved. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(1) and 4153-119(a)(1))
- 2) THE LICENSEE OR APPLICANT, OR THE PERSON DESIGNATED TO MANAGE OR SUPERVISE THE FACILITY HAS BEEN CONVICTED OF any of the following crimes DURING THE PREVIOUS FIVE YEARS. Such convictions shall be verified by A CERTIFIED COPY OF THE RECORD OF THE COURT OF CONVICTION.

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## Section 390.165(b)(2) (continued)

- A) A FELONY.
- B) TWO OR MORE MISDEMEANORS INVOLVING MORAL TURPITUDE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(2) and 4153-119(a)(2))
- 3) THE MORAL CHARACTER OF THE LICENSEE, ADMINISTRATOR, MANAGER, OR SUPERVISOR OF THE FACILITY IS NOT REPUTABLE. Evidence to be considered will include verifiable statements by residents of a facility, law enforcement officials, or other persons with knowledge of the individual's character. In addition, the definition afforded to the terms "reputable," "unreputable," and "irreputable" by the circuit courts of the State of Illinois shall apply when appropriate to the given situation. For purposes of this Section, a manager or supervisor of the facility is an individual with responsibility for the overall management, direction, coordination, or supervision of the facility or the facility staff. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(2) and 4153-119(a)(2))

- 4) The facility is operating (or, for an initial applicant, intends to operate) with PERSONNEL WHICH ARE INSUFFICIENT IN NUMBER OR UNQUALIFIED BY TRAINING OR EXPERIENCE TO PROPERLY CARE FOR THE NUMBER AND TYPE OF RESIDENTS in the facility. Standards in these rules concerning personnel, including Sections 390.810, 390.820, 390.830, 390.1030, 390.1040 and 390.1050, will be considered in making this determination. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(3) and 4153-119(a)(3))

- 5) The facility has available INSUFFICIENT FINANCIAL OR OTHER RESOURCES TO OPERATE THE FACILITY IN ACCORDANCE WITH THESE RULES. Financial information and changes in financial information provided by the facility under Section 390.120(f) and under Section 3-208 of the Act will be considered in making this determination. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-208)

- 6) THE FACILITY IS NOT UNDER THE DIRECT SUPERVISION OF A FULL-TIME ADMINISTRATOR as required by Section 390.510. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(6) and 4153-119(a)(5))

- 7) The facility has violated the rights of residents of the facility by any of the following actions:

- A) A pervasive pattern of cruelty or indifference to residents

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Section 390.165(b)(7)(A) (continued)

has occurred in the facility.

- B) The facility has appropriated or converted for its use the property of a resident without his written consent or the consent of his legal guardian.
- C) The facility has secured property, or a bequest of property, from a resident by undue influence.
- 8) The facility knowingly submitted false information either on the licensure or renewal application forms or during the course of an inspection or survey of the facility.
- 9) The facility has refused to allow an inspection or survey of the facility by agents of the Department to occur.
- c) The Director or his designee shall consider all available evidence at the time of the determination, including the history of the facility and the applicant in complying with the Act and these rules, notices of violations which have been issued to the facility and the applicant, findings of surveys and inspections, and any other evidence provided by the facility, residents, law enforcement officials and other interested individuals.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.170 Denial of Initial License

- a) A determination by the Director or his designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 390.165 or the following criteria are met.

1) THE APPLICANT, ANY MEMBER OF THE FIRM, PARTNERSHIP, OR ASSOCIATION WHICH IS THE APPLICANT, ANY OFFICER OR STOCKHOLDER OF THE CORPORATION WHICH IS THE APPLICANT, OR THE PERSON DESIGNATED TO MANAGE OR SUPERVISE THE FACILITY HAS BEEN CONVICTED OF ANY OF THE FOLLOWING CRIMES DURING THE PREVIOUS FIVE YEARS. Such convictions shall be verified by A CERTIFIED COPY OF THE RECORD OF THE COURT OF CONVICTION.

- A) A FELONY.
- B) TWO OR MORE MISDEMEANORS INVOLVING MORAL TURPITUDE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(2))

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Section 390.170(a) (continued)

- 2) Prior license revocation. Both of the following conditions must be met:

- A) The license of a facility under this Act has been REVOKED DURING THE PAST FIVE YEARS, which was owned or operated BY THE APPLICANT, BY A CONTROLLING OWNER OF THE APPLICANT, BY A CONTROLLING COMBINATION OF OWNERS OF THE APPLICANT, OR BY AN AFFILIATE WHO IS A CONTROLLING OWNER OF THE APPLICANT. Operation for the purposes of this provision shall include individuals with responsibility for the overall management, direction, or supervision of the facility.
- B) SUCH PRIOR REVOCATION RENDERS THE APPLICANT UNQUALIFIED OR INCAPABLE OF MAINTAINING A FACILITY IN ACCORDANCE WITH THE MINIMUM STANDARDS SET FORTH IN THE ACT OR IN THESE RULES. This determination will be based on the applicant's qualifications and ability to meet the criteria outlined in Section 390.165(b) as evidenced by the application and the applicant's prior history. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(5))

- b) The Department shall notify an applicant IMMEDIATELY UPON DENIAL OF ANY APPLICATION. Such notice shall be IN WRITING and shall include:

- 1) A CLEAR AND CONCISE STATEMENT of the basis of the denial. The statement shall include a citation to the provisions of Section 3-117 of the Act and the provisions of these rules under which the application is being denied.
- 2) A description of THE RIGHT OF THE APPLICANT TO APPEAL THE DENIAL OF THE APPLICATION and the right to a hearing. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-118)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.175 Denial of Renewal of License

- a) Application for renewal of a license of a facility shall be denied and the license of the facility shall be allowed to expire when the Director or his designee finds that a condition, occurrence, or situation in the facility meets any of the criteria specified in Section 390.165(b).

- b) When the Director or his designee determines that an application for



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## Section 390.175(b) (continued)

renewal of a license of a facility is to be denied, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:

- 1) A CLEAR AND CONCISE STATEMENT of the basis of the denial. The statement shall include a citation to the provisions of the Act and these rules on which the application for renewal is being denied.
  - 2) A statement of the date on which the current license of the facility will expire as provided in Subsection (c) of this Section and Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).
  - 3) A description of THE RIGHT OF THE APPLICANT TO APPEAL THE DENIAL OF THE APPLICATION FOR RENEWAL AND THE RIGHT TO A HEARING. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(b)).
  - c) The effective date of the nonrenewal of a license shall be as provided in Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).
  - d) The current license of the facility shall be EXTENDED BY THE DEPARTMENT when it finds that such extension is necessary TO PERMIT ORDERLY REMOVAL AND RELOCATION OF RESIDENTS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)(3))
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.180 Revocation of License

- a) The license of a facility shall be revoked when the Director or his designee finds that a condition, occurrence or situation in the facility meets any of the criteria specified in Section 390.165(b). In addition, the license of a facility will be revoked when the facility fails to abate or eliminate a level A violation as provided in Section 390.282(b).
- b) When the Director or his designee determines that the license of a facility is to be revoked, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:
  - 1) A CLEAR AND CONCISE STATEMENT of the basis of the revocation. The statement shall include a citation to the provisions of the

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## Section 390.180(b)(1) (continued)

Act and these rules on which the license is being revoked.

- 2) A statement of the date on which the revocation will take effect as provided in Subsection (c) of this Section and Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).
  - 3) A description of THE RIGHT OF THE FACILITY TO APPEAL THE REVOCATION OF THE LICENSE AND THE RIGHT TO A HEARING. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(b)).
  - c) The effective date of the revocation of a license shall be as provided in Section 3-119(d) of the Act. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d))
  - d) The effective date of the revocation shall be EXTENDED BY THE DEPARTMENT when it finds that such extension is necessary TO PERMIT ORDERLY REMOVAL AND RELOCATION OF RESIDENTS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)(3))
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.190 Experimental Program Conflicting With Requirements

- a) Any facility desiring to conduct an experimental program or do research which is in conflict with this Part shall submit a written request to the Department and secure prior approval. The Department will not approve experimental programs which would violate residents rights under the Act. Such approval will be granted only if the request will not create an unnecessary and unusual threat to the health, welfare, or safety of the residents or staff. (A, B)
  - b) The Department may grant to a facility special permission to provide day care when it has adequate facilities and staff to satisfactorily provide such services. Such permission will be based on compliance with the requirements in Section 390.3510. ~~(See Guidelines in Appendix B.)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.200 Inspections, Surveys, Evaluations and Consultation

- a) The terms survey, inspection and evaluation are synonymous. These

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## Section 390.200(a) (continued)

terms refer to the overall examination of compliance with the Act and the regulations in this Part. All facilities to which this Part applies shall be subject to and shall be deemed to have given consent to annual inspections, surveys and evaluations by properly identified personnel of the Department, or by such other properly identified persons, including local health department staff, as the Department may designate. AN INSPECTION, SURVEY OR EVALUATION, OTHER THAN AN INSPECTION OF FINANCIAL RECORDS SHALL BE UNANNOUNCED. CONSULTATIONS MAY BE ANNOUNCED. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-212). The licensee, or person representing the licensee in the facility, shall provide to the representative of the Department access and entry to the premises or facility for obtaining information required to carry out the Act and the rules promulgated thereunder. IN ADDITION, REPRESENTATIVES OF THE DEPARTMENT SHALL HAVE ACCESS TO AND MAY REPRODUCE OR PHOTOCOPY AT THE DEPARTMENT'S COST ANY BOOKS, RECORDS, AND OTHER DOCUMENTS MAINTAINED BY THE FACILITY, THE LICENSEE OR THEIR REPRESENTATIVES TO THE EXTENT NECESSARY TO CARRY OUT THIS ACT AND THE RULES PROMULGATED THEREUNDER (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-213). A facility may charge the Department for such photocopying at a rate determined by the facility not to exceed the rate in the Department's Freedom of Information Rules - 2 Ill. Adm. Code 1126. ~~(C)~~

b) BEFORE MAKING MORE THAN THE REQUIRED NUMBER OF INSPECTIONS, SURVEYS AND EVALUATIONS OF A FACILITY, THE DEPARTMENT SHALL HAVE TAKEN INTO ACCOUNT THE FOLLOWING CRITERIA:

- 1) PREVIOUS INSPECTION REPORTS;
- 2) THE FACILITY'S HISTORY OF COMPLIANCE WITH THE ACT:
  - A) PRIOR CORRECTION OF VIOLATIONS;
  - B) PRIOR ENFORCEMENT ACTIONS;
  - C) NUMBER AND SEVERITY OF PRIOR COMPLAINTS;
- 3) NUMBER AND SEVERITY OF CURRENT COMPLAINTS;
- 4) ALLEGATIONS OF RESIDENT ABUSE OR NEGLIGENCE;
- 5) COMPLIANCE WITH DISASTER PREPAREDNESS PROVISIONS UNDER THE ACT;
- 6) OTHER REASONABLE BELIEF THAT DEFICIENCIES REGARDING THE ACT EXIST; ~~AND FOR~~ AND

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## Section 390.200(b) (continued)

7) requirements pursuant to the "1864 Agreement" (42 U.S.C.A. 1395aa) between the Department and U.S. Health and Human Services (HHS) (e.g., annual and follow-up certification inspections, life safety code inspections and any inspections requested by the secretary of HHS). ~~(C)~~ (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-212(b)).

c) UPON THE COMPLETION OF EACH INSPECTION, SURVEY AND EVALUATION, THE REPRESENTATIVE OF THE DEPARTMENT WHO CONDUCTED THE INSPECTION, SURVEY OR EVALUATION SHALL SUBMIT A COPY OF THEIR REPORT TO THE LICENSEE OR THEIR REPRESENTATIVE, UPON EXITING THE FACILITY. A copy of the information gathered during a complaint investigation will not be provided upon exiting the facility. COMMENTS OR DOCUMENTATION PROVIDED BY THE LICENSEE WHICH MAY REFUTE FINDINGS IN THE REPORT, WHICH EXPLAIN EXTENUATING CIRCUMSTANCES THAT THE FACILITY COULD NOT REASONABLY HAVE PREVENTED, OR WHICH INDICATE METHODS AND TIMETABLES FOR CORRECTION OF DEFICIENCIES DESCRIBED IN THE REPORT SHALL BE PROVIDED TO THE DEPARTMENT WITHIN ~~10~~ TEN DAYS OF RECEIPT OF THE COPY OF THE REPORT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-212(c)).

d) Consultation consists of providing advice or suggestions to the staff of a facility at their request relative to specific matters of the scope of regulation, methods of compliance with the Act or rules, ~~and for~~ and general matter of patient care.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.210 Filing an Annual Attested Financial Statement

a) EACH LICENSEE SHALL SUBMIT AN ANNUAL ATTESTED FINANCIAL STATEMENT TO THE DEPARTMENT. THIS FINANCIAL STATEMENT SHALL BE FILED IN A PRESCRIBED FORMAT ON FORMS SUPPLIED BY THE DEPARTMENT. THE FORMS WILL BE DEVELOPED IN CONJUNCTION WITH THE ILLINOIS DEPARTMENT OF PUBLIC AID. ~~(C)~~ The time period covered in the financial statement shall be a period determined by the Department for the initial filing, and shall thereafter coincide with the facility's fiscal year or the calendar year. ~~(C)~~

b) The Department may require any facility to file an audited financial statement, if the Department determines that such a statement is needed.

c) The Department may require any or all facilities to submit attested



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## Section 390.210(c) (continued)

or audited financial statements more frequently than annually, if the Department determines that more frequent financial statements are needed. The frequency and time period of such filings shall be as determined by the Department for each individual facility.

- d) The financial statement shall be filed with the Department within ~~thirty~~ ~~90~~ days following the end of the designated reporting period. ~~60~~ The financial statement will not be considered as having been filed unless all sections of the prescribed forms have been properly completed. Those sections which do not apply to a particular facility shall be noted "not applicable" on the forms. ~~60~~
- e) The information required to be submitted in the financial statement will include, but is not limited to, the following:
- 1) Facility information, including: facility name and address, licensure information, type of ownership, licensed bed capacity, date and cost of building construction and additions, date and cost of acquisition of buildings, building sizes, equipment costs and dates of acquisition. ~~60~~
  - 2) Resident information, including: number and level of care of residents by source of payment, income from residents by level of care. ~~60~~
  - 3) Cost information by level of care, including:
    - A) General service costs; such as dietary, food, housekeeping, laundry, utilities, and plant operation and maintenance. ~~60~~
    - B) Health care costs; such as medical director, nursing, medications, oxygen, activities, medical records, other medical services, social services, and utilization reviews. ~~60~~
    - C) General Administration; such as administrative salaries, professional services, fees, subscriptions, promotional, insurance, travel, clerical, employee benefits, license fees, and inservice training and education. ~~60~~
    - D) Ownership; such as depreciation, interest, taxes, rent, and leasing. ~~60~~
    - E) Special Service cost centers; such as habilitative and

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## Section 390.210(e)(3)(E) (continued)

- rehabilitative services, therapies, transportation, education, barber and beauty care, and gift and coffee shop. ~~60~~
- 4) Income information, including operating and non-operating income. ~~60~~
  - 5) Ownership information, including balance sheet and payment to owners. ~~60~~
  - 6) Personnel information, including the number and type of people employed and salaries paid. ~~60~~
  - 7) Related organization information, including related organizations from which services are purchased. ~~60~~
  - f) The new owner or a new lessee of a previously licensed facility may file a projection of capital costs at the time of closing or signing of the lease.
    - 1) A facility which is licensed for the first time (a newly constructed facility) must file a projection of capital costs. ~~60~~
    - 2) Each of the above must file a full cost report within nine ~~90~~ months after acquisition (covering the first six ~~60~~ months of operation). Each must also file a cost report within ~~thirty~~ ~~90~~ days of the close of its first complete fiscal year. ~~60~~
    - g) NO PUBLIC FUNDS SHALL BE EXPENDED FOR THE MAINTENANCE OF ANY RESIDENT IN ANY FACILITY WHICH HAS FAILED TO FILE THIS FINANCIAL STATEMENT, AND NO PUBLIC FUNDS SHALL BE PAID TO, OR ON BEHALF OF, A FACILITY WHICH HAS FAILED TO FILE THE STATEMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 390.220 Information to Be Made Available to the Public By the Department

- a) THE DEPARTMENT SHALL RESPECT THE CONFIDENTIALITY OF A RESIDENT'S RECORD AND SHALL NOT DIVULGE OR DISCLOSE THE CONTENTS OF A RECORD IN A MANNER WHICH IDENTIFIES A RESIDENT, EXCEPT UPON A RESIDENT'S DEATH TO A RELATIVE OR GUARDIAN, OR UNDER JUDICIAL PROCEEDINGS. THIS

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## Section 390.220(a) (continued)

SECTION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF A RESIDENT OR A RESIDENT'S REPRESENTATIVE TO INSPECT OR COPY THE RESIDENT'S RECORDS.

- b) CONFIDENTIAL MEDICAL, SOCIAL, PERSONAL OR FINANCIAL INFORMATION IDENTIFYING A RESIDENT SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION IN A MANNER WHICH IDENTIFIES A RESIDENT. ~~(C)~~
- c) THE FOLLOWING INFORMATION IS SUBJECT TO DISCLOSURE TO THE PUBLIC FROM THE DEPARTMENT OR THE DEPARTMENT OF PUBLIC AID:
  - 1) INFORMATION SUBMITTED UNDER SECTIONS 3-103 AND 3-207 OF THE ACT, EXCEPT INFORMATION CONCERNING THE REMUNERATION OF PERSONNEL LICENSED, REGISTERED, OR CERTIFIED BY THE DEPARTMENT OF ~~REGISTRATION AND EDUCATION~~ PROFESSIONAL REGULATION AND MONTHLY CHARGES FOR AN INDIVIDUAL PRIVATE RESIDENT;
  - 2) RECORDS OF LICENSE AND CERTIFICATION INSPECTIONS, SURVEYS, AND EVALUATIONS OF FACILITIES, OTHER REPORTS OF INSPECTIONS, SURVEYS, AND EVALUATIONS OF RESIDENT CARE, AND REPORTS CONCERNING A FACILITY PREPARED PURSUANT TO TITLES XVIII AND XIX OF THE SOCIAL SECURITY ACT, (42 U.S.C.A. 1395 et seq. and 1396 et seq.) SUBJECT TO THE PROVISIONS OF THE SOCIAL SECURITY ACT (42 U.S.C.A. 301 et seq.);
  - 3) COST AND REIMBURSEMENT REPORTS SUBMITTED BY A FACILITY UNDER SECTION 3-208 OF THE ACT REPORTS OF AUDITS OF FACILITIES, AND OTHER PUBLIC RECORDS CONCERNING THE COST INCURRED BY, REVENUES RECEIVED BY, AND REIMBURSEMENT OF FACILITIES;
  - 4) COMPLAINTS FILED AGAINST A FACILITY AND COMPLAINT INVESTIGATION REPORTS, EXCEPT THAT A COMPLAINT OR COMPLAINT INVESTIGATION REPORT SHALL NOT BE DISCLOSED TO A PERSON OTHER THAN THE COMPLAINANT OR COMPLAINANT'S REPRESENTATIVE BEFORE IT IS DISCLOSED TO A FACILITY UNDER SECTION 3-702 OF THE ACT, AND, FURTHER, EXCEPT THAT A COMPLAINT OR RESIDENT'S NAME SHALL NOT BE DISCLOSED EXCEPT UNDER SECTION 3-702 OF THE ACT.
  - 5) THE DEPARTMENT SHALL DISCLOSE INFORMATION UNDER THIS SECTION IN ACCORDANCE WITH PROVISIONS FOR INSPECTION AND COPYING OF PUBLIC RECORDS REQUIRED BY THE FREEDOM OF INFORMATION ACT (111. Rev. Stat. ~~1984 Supp.~~ 1987, ch. 116, par. 201 et seq.); AND
  - 6) HOWEVER, THE DISCLOSURE OF INFORMATION DESCRIBED IN SUBSECTION (1) SHALL NOT BE RESTRICTED BY ANY PROVISION OF THE FREEDOM OF INFORMATION ACT. (111. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-205)

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## Section 390.220 (continued)

- d) Copies of reports available to the public may be obtained by making a written request to the Department in accordance with the Department's Freedom of Information Rules - 2 Ill. Adm. Code 1126. However, access to cost reports shall be governed by Department of Public Aid rule "Access to Cost Reports" (89 Ill. Adm. Code 140.544). The Department may, at its discretion, waive this fee if the party requesting the material is involved in legal action with the Department.

(Source: Amended at 13 Ill. Reg. , effective )

Section 390.230 Information to Be Made Available to the Public By the Licensee

- a) EVERY FACILITY SHALL CONSPICUOUSLY POST OR DISPLAY IN AN AREA OF IT ACCESSIBLE TO RESIDENTS, EMPLOYEES, AND VISITORS THE FOLLOWING:

- 1) ITS CURRENT LICENSE; ~~(C)~~
- 2) A DESCRIPTION, PROVIDED BY THE DEPARTMENT OF COMPLAINT PROCEDURES ESTABLISHED UNDER THE "NURSING HOME CARE REFORM ACT OF 1979" AND THE NAME, ADDRESS, AND TELEPHONE NUMBERS OF A PERSON AUTHORIZED BY THE DEPARTMENT TO RECEIVE COMPLAINTS; ~~(C)~~
- 3) A COPY OF ANY ORDER PERTAINING TO THE FACILITY ISSUED BY THE DEPARTMENT OR A COURT; AND ~~(C)~~
- 4) A LIST OF THE MATERIAL AVAILABLE FOR PUBLIC INSPECTION UNDER SECTION 3-210 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ ~~(C)~~
- b) A FACILITY SHALL RETAIN THE FOLLOWING FOR PUBLIC INSPECTION:
  - 1) A COMPLETE COPY OF EVERY INSPECTION REPORT OF THE FACILITY RECEIVED FROM THE DEPARTMENT DURING THE PAST FIVE ~~(5)~~ YEARS; ~~(C)~~
  - 2) A COPY OF EVERY ORDER PERTAINING TO THE FACILITY ISSUED BY THE DEPARTMENT OR A COURT DURING THE PAST FIVE ~~(5)~~ YEARS; ~~(C)~~
  - 3) A DESCRIPTION OF THE SERVICES PROVIDED BY THE FACILITY AND THE RATES CHARGED FOR THOSE SERVICES AND ITEMS FOR WHICH A RESIDENT MAY BE SEPARATELY CHARGED; ~~(C)~~



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## Section 390.230(b) (continued)

- 4) A COPY OF THE STATEMENT OF OWNERSHIP REQUIRED BY SECTION 3-207 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~; ~~(C)~~
- 5) A RECORD OF PERSONNEL EMPLOYED OR RETAINED BY THE FACILITY WHO ARE LICENSED, CERTIFIED OR REGISTERED BY THE DEPARTMENT OF ~~REGISTRATION AND EDUCATION~~ PROFESSIONAL REGULATION; AND ~~(C)~~
- 6) A COMPLETE COPY OF THE MOST RECENT INSPECTION REPORT OF THE FACILITY RECEIVED FROM THE DEPARTMENT. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.240 Municipal Licensing

- a) MUNICIPALITIES WHICH HAVE ADOPTED A LICENSING ORDINANCE AS PROVIDED UNDER SECTION 3-104 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ AND THIS PART SHALL ADOPT THIS PART ~~THESE MINIMUM STANDARDS, RULES AND REGULATIONS FOR A LONG TERM CARE FACILITY FOR PERSONS UNDER TWENTY TWO (22) YEARS OF AGE BY REFERENCE BY COMPLYING WITH ARTICLE I, DIVISION 3, OF THE "ILLINOIS MUNICIPAL CODE" (Ill. Rev. Stat. 1981, 1987, ch. 24, par. 131 through 136)~~
- b) Municipalities shall issue licenses so that the expiration dates are distributed throughout the calendar year. The month the license expires shall coincide with the date of original licensure of the licensee. During the ~~twenty-four (24)~~ month period following the effective date of the ~~"Nursing Home Care Reform Act of 1979"~~, the municipality may issue renewal licenses for period of less than one ~~(1)~~ year in order to distribute the expiration date of such licenses throughout the calendar year.
- c) The municipality shall notify the Department within ten ~~(10)~~ days from the date of issuance or denial of a license that the municipal license has been issued or denied. If the license is issued, the notice will include the facility name, address, the date of issuance and the number of beds by level of care for which the license was issued. If the license is denied, the notice will indicate reason for denial and the current status of licensee's (applicant's) application for municipal license.
- d) THE MUNICIPALITY SHALL USE THE SAME LICENSING CLASSIFICATIONS AS THE DEPARTMENT; AND A FACILITY MAY NOT BE LICENSED FOR A DIFFERENT CLASSIFICATION BY THE DEPARTMENT THAN BY THE MUNICIPALITY.

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## Section 390.240 (continued)

- e) THE DEPARTMENT AND THE MUNICIPALITY SHALL HAVE THE RIGHT AT ANY TIME TO VISIT AND INSPECT THE PREMISES AND PERSONNEL OF ANY FACILITY FOR THE PURPOSE OF DETERMINING WHETHER THE APPLICANT OR LICENSEE IS IN COMPLIANCE WITH THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~, THIS PART OR WITH THE LOCAL ORDINANCES WHICH GOVERN THE REGULATION OF THE FACILITY. THE DEPARTMENT MAY SURVEY ANY FORMER FACILITY WHICH ONCE HELD A LICENSE TO INSURE THAT THE FACILITY IS NOT AGAIN OPERATING WITHOUT A LICENSE. MUNICIPALITIES MAY CHARGE A REASONABLE LICENSE OR RENEWAL FEE FOR THE REGULATION OF FACILITIES, WHICH FEES SHALL BE IN ADDITION TO THE FEES PAID TO THE DEPARTMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.250 Ownership Disclosure

- a) AS A CONDITION OF THE ISSUANCE OR RENEWAL OF THE LICENSE OF ANY FACILITY, THE APPLICANT SHALL FILE A STATEMENT OF OWNERSHIP. THE APPLICANT SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE IN ~~AGREE TO UPDATE~~ THE INFORMATION REQUIRED IN THE STATEMENT OF OWNERSHIP WITHIN TEN DAYS OF THE CHANGE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-207(a)) ~~EVERY SIX (6) MONTHS FROM THE INITIAL DATE OF FILING IF THERE IS ANY CHANGE. (C)~~
- b) A statement of ownership shall include the following:
  - 1) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five ~~(5)~~ percent or more in the legal entity designated as the operator/licensee of the facility which is the subject of the application or license; ~~(C)~~
  - 2) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five ~~(5)~~ percent or more in the legal entity that owns the building in which the operator/licensee is operating the facility which is the subject of the application or license; and ~~(C)~~
  - 3) THE ADDRESS OF ANY FACILITY, WHEREVER LOCATED, IN WHICH THE

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Section 390.250(b)(3) (continued)

APPLICANT HAS ANY OWNERSHIP INTEREST. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.260 Issuance of Conditional Licenses

a) THE DIRECTOR MAY ISSUE A CONDITIONAL LICENSE TO ANY FACILITY IF THE DIRECTOR FINDS THAT EITHER A TYPE "A" OR TYPE "B" VIOLATION EXISTS IN SUCH FACILITY. THE ISSUANCE OF A CONDITIONAL LICENSE SHALL REVOKE ANY LICENSE HELD BY THE FACILITY.

b) PRIOR TO THE ISSUANCE OF A CONDITIONAL LICENSE, THE DEPARTMENT SHALL REVIEW AND APPROVE A WRITTEN PLAN OF CORRECTION. THE DEPARTMENT SHALL SPECIFY THE VIOLATIONS WHICH PREVENT FULL LICENSURE AND SHALL ESTABLISH A TIME SCHEDULE FOR CORRECTION OF THE DEFICIENCIES. RETENTION OF THE LICENSE SHALL BE CONDITIONAL UPON THE CORRECTION OF THE DEFICIENCIES IN ACCORDANCE WITH THE PLAN OF CORRECTION. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4153-312)

c) WRITTEN NOTICE OF THE DECISION TO ISSUE A CONDITIONAL LICENSE SHALL BE SENT TO THE APPLICANT OR LICENSEE TOGETHER WITH THE SPECIFICATION OF ALL VIOLATIONS OF THE ACT AND THE RULES PROMULGATED THEREUNDER WHICH PREVENT FULL LICENSURE AND WHICH FORM THE BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A CONDITIONAL LICENSE AND THE REQUIRED PLAN OF CORRECTION. THE NOTICE SHALL INFORM THE APPLICANT OR LICENSEE OF ITS RIGHT TO A FULL HEARING UNDER SECTION 3-315 OF THE ACT TO CONTEST THE ISSUANCE OF THE CONDITIONAL LICENSE. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4153-312)

d) IF THE FACILITY DESIRES TO HAVE AN INFORMAL CONFERENCE, IT SHALL, WITHIN FOUR ~~44~~ WORKING DAYS FROM RECEIPT OF THE NOTICE UNDER THE ACT, SEND A WRITTEN REQUEST FOR AN INFORMAL CONFERENCE TO THE DEPARTMENT. THE DEPARTMENT SHALL, WITHIN FOUR ~~44~~ WORKING DAYS FROM THE RECEIPT OF THE REQUEST, HOLD AN INFORMAL CONFERENCE. FOLLOWING THIS CONFERENCE, THE DEPARTMENT MAY AFFIRM OR OVERRULE ITS PREVIOUS DECISION, OR MODIFY THE TERMS OF THE CONDITIONAL LICENSE AND PLAN OF CORRECTION. THE CONDITIONAL LICENSE MAY BE ISSUED AFTER THE INFORMAL CONFERENCE OR AFTER THE TIME FROM REQUESTING AN INFORMAL CONFERENCE HAS EXPIRED, PRIOR TO ANY FURTHER HEARING.

e) IF THE APPLICANT OR LICENSEE DESIRES TO PROTEST THE BASIS FOR ISSUANCE OF A CONDITIONAL LICENSE OR THE TERM OF THE LICENSE, OR PLAN OF CORRECTION, THE APPLICANT OR LICENSEE SHALL SEND A WRITTEN REQUEST FOR HEARING TO THE DEPARTMENT WITHIN TEN ~~10~~ DAYS AFTER RECEIPT

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Section 390.260(e) (continued)

BY THE APPLICANT OR LICENSEE OF THE DEPARTMENT'S NOTICE AND DECISION TO ISSUE A CONDITIONAL LICENSE. THE DEPARTMENT SHALL HOLD THE HEARING AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4153-315)

f) A CONDITIONAL LICENSE SHALL BE ISSUED FOR A PERIOD SPECIFIED BY THE DEPARTMENT, BUT IN NO EVENT FOR MORE THAN ONE ~~11~~ YEAR. THE DEPARTMENT SHALL PERIODICALLY INSPECT ANY FACILITY OPERATING UNDER A CONDITIONAL LICENSE. IF THE DEPARTMENT FINDS SUBSTANTIAL FAILURE BY THE FACILITY TO CORRECT THE VIOLATIONS WHICH PREVENTED FULL LICENSURE AND FORMED THE BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A CONDITIONAL LICENSE IN ACCORDANCE WITH THE REQUIRED PLAN OF CORRECTION, THE CONDITIONAL LICENSE MAY BE REVOKED AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4153-316)

g) IF THE DEPARTMENT DETERMINES THAT A CONDITIONAL LICENSE SHALL EXPIRE WITHOUT RENEWAL OR REPLACEMENT OF THE CONDITIONAL LICENSE BY A REGULAR LICENSE, THE DEPARTMENT SHALL SO NOTIFY THE LICENSEE AT LEAST ~~THIRTY~~ 30 DAYS PRIOR TO EXPIRATION OF THE LICENSE. THE LICENSEE IS ENTITLED TO A HEARING UNDER THE ACT IF REQUESTED PRIOR TO EXPIRATION OF THE LICENSE.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.270 Monitor and Receivership

a) THE DEPARTMENT MAY PLACE AN EMPLOYEE OR AGENT TO SERVE AS A MONITOR IN A FACILITY WHEN ANY OF THE FOLLOWING CONDITIONS EXIST:

- 1) THE FACILITY IS OPERATING WITHOUT A LICENSE;
- 2) THE DEPARTMENT HAS SUSPENDED, REVOKED OR REFUSED TO RENEW THE EXISTING LICENSE OF THE FACILITY;
- 3) THE FACILITY IS CLOSING OR HAS INFORMED THE DEPARTMENT THAT IT INTENDS TO CLOSE AND ADEQUATE ARRANGEMENTS FOR RELOCATION OF RESIDENTS HAVE NOT BEEN MADE AT LEAST 30 DAYS PRIOR TO CLOSURE;  
OR
- 4) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS, WHETHER OR NOT IT HAS INITIATED REVOCATION OR NONRENEWAL PROCEDURES. IF BECAUSE OF THE UNWILLINGNESS OR INABILITY OF THE LICENSEE TO REMEDY THE EMERGENCY THE DEPARTMENT BELIEVES A MONITOR IS



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## Section 390.270(a)(4) (continued)

## NECESSARY; or

- 5) The Department receives notification that the facility is terminated or will not be renewed for participation in the Federal Reimbursement Program under either Title XVIII (Medicaid) or Title XIX (Medicare) of the Social Security Act. (Ill. Rev. Stat. ~~1983-1987~~, ch. 111 1/2, par. 4153-501)

- b) The monitor shall meet the following minimum requirements:

- 1) be in good physical health as evidenced by a physical examination by a physician within the last year;
- 2) have an understanding of the needs of nursing home residents as evidenced by one year of experience in working with the elderly in programs such as patient care, social work or advocacy;
- 3) have an understanding of the ~~Nursing Home Care Reform~~ Act ~~(hereinafter, the Act)~~ and this Part ~~the rules and regulations promulgated to enforce the Act~~ which are the subject of the monitors' duties as evidenced in a personal interview of the candidate;
- 4) not be related to the owners of the involved facility through blood, marriage or common ownership of real or personal property except ownership of stock that is traded on a stock exchange;
- 5) successfully completed a baccalaureate degree; ~~and~~ and
- 6) two years full-time work experience in the long-term care industry of the State of Illinois.

- c) The monitor shall be under the supervision of the ~~Division of Enforcement, Office of Health Regulation, Illinois~~ Department of Public Health; shall perform the duties of a monitor delineated in Section 3-502 of the Act; and accomplish the following actions:

- 1) visit the facility at least five ~~(5)~~ days per week or as directed by the Department;
- 2) review all records pertinent to the condition for such monitor's placement under subsection (a) of this Section ~~above~~;
- 3) provide to the Department ~~Division of Enforcement, Office of~~

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## Section 390.270(c)(3) (continued)

- ~~Health Regulation~~, a weekly written report and a daily oral report detailing the observed conditions of the facility; and
- 4) shall be available as a witness for hearings involving the condition for placement as monitor.

- d) All communications, including but not limited to data, memoranda, correspondence, records and reports shall be transmitted to and become the property of the Department, plus, findings and results of the monitor's work done under these rules and regulations shall be strictly confidential and not subject to disclosure without written authorization from the Department ~~Division of Enforcement, Office of Health Regulation~~, or by court order subject to disclosure only in accordance with the provisions of the Freedom of Information Act, subject to the confidentiality requirements of the ~~Nursing Home Care Reform Act of 1979~~.

- e) The assignment as monitor may be terminated at any time by the Department ~~Division of Enforcement, Office of Health Regulation~~.

- f) Through consultation with the long-term care industry associations, professional organizations, consumer groups and health care management corporations, the Department shall maintain a list of receivers. Preference on the list shall be given to individuals possessing a valid Illinois Nursing Home Administrator's License, experience in financial and operations management of a long-term care facility and individuals with access to consultative experts with the aforementioned experience. To be placed on the list, individuals must meet the following minimum requirements:

- 1) be in good physical health as evidenced by a physical examination by a physician within the last year;
- 2) have an understanding of the needs of nursing home residents and the delivery of the highest possible quality of care as evidenced by one year of experience in working with the elderly in programs such as patient care, social work, or advocacy;
- 3) have an understanding and working knowledge of the Act and this Part ~~rules and regulations promulgated thereunder~~ as evidenced in a personal interview of the candidate;
- 4) have successfully completed a baccalaureate degree; and
- 5) have two years full-time working experience in the Illinois

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## Section 390.270(f)(5) (continued)

long-term care industry.

- g) Upon appointment of a receiver for a facility by a court, the Department shall inform the individual of all legal proceedings to date which concern the facility.
- h) The receiver may request that the Director of the Department authorize expenditures from monies appropriated, pursuant to Section 3-511 of the Act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.
- i) In the case of Department ordered patient transfers, the receiver may:
  - 1) assist in providing for the orderly transfer of all residents in the facility to other suitable facilities, or make other provisions for their continued health;
  - 2) assist in providing for transportation of the resident, his medical records and his belongings if he is transferred or discharged; assist in locating alternative placement; assist in preparing the resident for transfer; and permit the resident's legal guardian to participate in the selection of the resident's new location;
  - 3) unless emergency transfer is necessary, explain alternative placements to the resident and provide orientation to the place chosen by the resident or resident's guardian.

- j) IN ANY ACTION OR SPECIAL PROCEEDING BROUGHT AGAINST A RECEIVER IN THE RECEIVER'S OFFICIAL CAPACITY FOR ACTS COMMITTED WHILE CARRYING OUT THE AFORESAID POWERS AND DUTIES, THE RECEIVER SHALL BE CONSIDERED A PUBLIC EMPLOYEE UNDER THE "LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 85, par. 1-101 et seq.). A RECEIVER MAY BE HELD LIABLE IN A PERSONAL CAPACITY ONLY FOR THE RECEIVER'S OWN GROSS NEGLIGENCE, INTENTIONAL ACTS OR BREACH OF FIDUCIARY DUTY. (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4153-513)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.272 Determination to Issue a Notice of Violation or  
Administrative Warning

- a) Upon receipt of a report of an inspection, survey or evaluation of a

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## Section 390.272(a) (continued)

facility, the Director or his designee shall review the findings contained in the report to determine WHETHER THE REPORT'S FINDINGS CONSTITUTE A VIOLATION OR VIOLATIONS OF WHICH THE FACILITY MUST BE GIVEN NOTICE and which THREATEN THE HEALTH, SAFETY, OR WELFARE OF A RESIDENT OR RESIDENTS. All information, evidence, and observations made during an inspection, survey or evaluation shall be considered findings or deficiencies.

- b) In making this determination, the Director or his designee shall consider any COMMENTS AND DOCUMENTATION PROVIDED BY THE FACILITY within ~~10~~ ten days of receipt of the report in accordance with Section 390.200(c).
- c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his designee shall base his determination on the following factors:
  - 1) THE SEVERITY OF THE FINDING. The Director or his designee will consider whether the finding constitutes a merely technical non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the standard.
  - 2) THE DANGER POSED TO RESIDENT HEALTH AND SAFETY. The Director or his designee will consider whether the finding could pose any direct ~~or indirect~~ harm to the residents.
  - 3) THE DILIGENCE AND EFFORTS TO CORRECT DEFICIENCIES AND CORRECTION OF REPORTED DEFICIENCIES BY THE FACILITY. Consideration will be given to any evidence provided by the facility in its comments and documentation that steps have been taken to reduce noted findings and to insure a reduction of deficiencies.
  - 4) THE FREQUENCY AND DURATION OF SIMILAR FINDINGS IN PREVIOUS REPORTS AND THE FACILITY'S GENERAL INSPECTION HISTORY. The director or his designee will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-212(c))
- d) If the Director or his designee determines that the report's findings constitute a violation or violations which do not directly threaten the health, safety, or welfare of a resident or residents, the



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## Section 390.272(d) (continued)

DEPARTMENT SHALL ISSUE AN ADMINISTRATIVE WARNING AS PROVIDED IN  
Section 390.277. (Ill. Rev. Stat. 1987, ch. 111 1/2, par.  
4153-303.2(a))

- e) ~~(d)~~ VIOLATIONS SHALL BE DETERMINED UNDER THIS SECTION NO LATER THAN 60  
DAYS AFTER COMPLETION OF EACH INSPECTION, SURVEY AND EVALUATION.  
(Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-212(c))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.274 Determination of the Level of a Violation

- a) After determining that issuance of a notice of violation is warranted  
and prior to issuance of the notice, the Director or his designee  
will review the findings which are the basis of the violation and any  
comments and documentation provided by the facility to determine the  
level of the violation. Each violation shall be determined to be  
either a level A ~~or level B~~ or level ~~B~~ level C violation based on the  
criteria outlined in this Section.

- b) The following definitions of levels of violations shall be used in  
determining the level of each violation:

- 1) A "level A violation" or "type A violation" is A VIOLATION OF  
THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE  
RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY  
PRESENTING A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS  
MENTAL OR PHYSICAL HARM WILL RESULT THEREFROM. (Ill. Rev. Stat.  
~~1985~~ 1987, ch. 111 1/2, par. 4151-129)
- 2) A "level B violation" or "type B violation" is A VIOLATION OF  
THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE  
RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY DIRECTLY  
THREATENING TO THE HEALTH, SAFETY OR WELFARE OF A RESIDENT.  
(Ill. Rev. Stat., ~~1985~~ 1987, ch. 111 1/2, par. 4151-130)
- ~~3) A "level C violation" or "type C violation" is A VIOLATION OF  
THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE  
RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY WHICH  
INDIRECTLY THREATENS THE HEALTH, SAFETY OR WELFARE OF A  
RESIDENT. (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 4151-131)~~
- c) In determining the level of a violation, the Director or his designee  
shall consider the following criteria:

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## Section 390.274(c) (continued)

- 1) The specific requirements of this Part which have been violated  
and the designated level of violation for those provisions.

A) The designated level of violation is indicated by the  
letter or letters in parentheses following specific  
provisions. The presence of more than one letter following  
a specific provision indicates that the provision may be  
applicable to different levels of violation. The absence  
of any letter following a specific provision indicates that  
no designated level of violation applicable to that  
provision has been determined.

B) The designated level of violation will be considered in  
conjunction with the other criteria contained in  
subsections (c)(2) and (c)(3) of this Section which may  
increase or decrease the level of violation cited for a  
specific violation, except that no violation ~~of a~~  
~~requirement designated as level C~~ will be cited as a  
level B violation unless there is a direct threat to the  
health, safety or welfare of a resident, or as a level A  
violation unless there is a substantial probability of the  
death of a resident or serious mental or physical harm to a  
resident.

- 2) The degree of danger to the resident or residents which is posed  
by the condition or occurrence in the facility. The following  
factors will be considered in assessing the degree of danger:

- A) Whether the resident or residents of the facility are able  
to recognize conditions or occurrences which may be harmful  
and are able to take measures for self-preservation and  
self-protection. The extent of nursing care required by  
the residents as indicated by review of patient needs will  
be considered in relation to this determination.
- B) Whether the resident or residents have access to the area  
of the facility in which the condition or occurrence exists  
and the extent of such access. A facility's use of  
barriers, warning notices, instructions to staff and other  
means of restricting resident access to hazardous areas  
will be considered.
- C) Whether the condition or occurrence was the result of  
inherently hazardous activities or negligence by the  
facility.

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## Section 390.274(c)(2) (continued)

D) Whether the resident or residents of the facility were notified of the condition or occurrence and the promptness of such notice. Failure of the facility to notify residents of potentially harmful conditions or occurrences will be considered. The adequacy of the method of such notification and the extent to which such notification reduced the potential danger to the residents will also be considered.

3) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility. In assessing the directness and imminence of the danger, the following factors will be considered:

A) Whether actual harm, including death, physical injury or illness, mental injury or distress, or pain, to a resident or residents resulted from the condition or occurrence and the extent of such harm.

B) Whether available statistics and records from similar facilities indicate that direct and imminent danger to the resident or residents has resulted from similar conditions or occurrences and the frequency of such danger.

C) Whether professional opinions and findings indicate that direct and imminent danger to the resident or residents will result from the condition or occurrence.

D) Whether the condition or occurrence was limited to a specific area of the facility or was widespread throughout the facility. Efforts taken by the facility to limit or reduce the scope of the area affected by the condition or occurrence will be considered.

E) Whether the physical, mental, or emotional state of the resident or residents, who are subject to the danger, would facilitate or hinder harm actually resulting from the condition or occurrence.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.276 Notice of Violation

a) EACH NOTICE OF VIOLATION SHALL BE IN WRITING AND SHALL CONTAIN THE

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## NOTICE OF PROPOSED AMENDMENTS

## Section 390.276(a) (continued)

## FOLLOWING INFORMATION:

1) A description of THE NATURE OF THE VIOLATION.

2) A citation of the specific STATUTORY PROVISION OR RULE which the Department believes has been violated. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-301)

3) A statement of the level of the violation as determined pursuant to Section 390.274.

4) One of the following requirements for corrective action:

A) For level A violations, a statement that necessary corrective action to ABATE OR ELIMINATE the violation must be taken IMMEDIATELY or within a specific FIXED PERIOD OF TIME NOT EXCEEDING 15 DAYS. In setting this period, the Department will consider whether harm to residents of the facility is imminent, whether necessary precautions can be taken to protect residents before the corrective action is completed, and whether delay would pose additional risks to the residents.

B) For level B violations ~~and level C violations~~, a REQUEST that the facility submit A PLAN OF CORRECTION WITHIN ~~10~~ TEN DAYS OF THE RECEIPT OF THE NOTICE OF VIOLATION pursuant to Section 3-303 of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-303) and Section 390.278 of this Part.

5) A statement that the Department may take additional action under the Act, including assessment of penalties or licensure action.

6) A description of the licensee's right to appeal the notice and its right to a hearing.

b) Each notice of violation shall be sent to the facility and the licensee ~~by registered mail~~ or served personally at the facility WITHIN TEN DAYS after the Director or his designee determines that issuance of a notice of violation is warranted under Section 390.272 (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-301).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 390.277 Administrative Warning

a) Each administrative warning shall be in writing and shall include the following information:

- 1) A description of the nature of the violation.
- 2) A citation of the specific statutory provision or rule which the Department believes has been violated.

3) A statement that the FACILITY SHALL BE RESPONSIBLE FOR CORRECTING THE SITUATION, CONDITION, OR PRACTICE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(a))

b) Each administrative warning shall be sent to the facility and the licensee or served personally at the facility within ten days after the Director or his designee determines that issuance of an administrative warning is warranted under Section 390.272.

c) The facility is not required to submit a plan of correction in response to an administrative warning.

d) If the Department finds, during THE NEXT ON-SITE INSPECTION WHICH OCCURS MORE THAN 90 DAYS AFTER THE ISSUANCE OF THE ADMINISTRATIVE WARNING, that the facility has not corrected the SITUATION, CONDITION, OR PRACTICE WHICH RESULTED IN THE ISSUANCE OF THE ADMINISTRATIVE WARNING, the Department shall notify the facility of the finding. The facility must then SUBMIT A WRITTEN PLAN OF CORRECTION as provided in Section 390.278. The Department will consider the plan of correction and take any necessary action in accordance with Section 390.278. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(b))

(Source: Added at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.278 Plans of Correction

a) A FACILITY SHALL HAVE TEN ~~10~~ DAYS AFTER RECEIPT OF A NOTICE OF VIOLATION FOR A LEVEL B ~~OR LEVEL C~~ VIOLATION, or after receipt of a notice under Section 390.277(d) of failure to correct a situation, condition, or practice which resulted in the issuance of an administrative warning, TO PREPARE AND SUBMIT A PLAN OF CORRECTION to the Department.

b) Within the ~~ten~~ 10-day period, a facility may request additional time for submission of the plan of correction. The Department will

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## Section 390.278(b) (continued)

extend the period for submission of the plan of correction for an additional 30 days, when it finds that corrective action by a facility to abate or eliminate the violation will require SUBSTANTIAL CAPITAL IMPROVEMENT. The Department will consider the extent and complexity of necessary physical plant repairs and improvements and any impact on the health, safety, or welfare of the residents of the facility in determining whether to grant a requested extension.

c) Each plan of correction shall be based on an assessment by the facility of the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each plan of correction shall include:

- 1) A description of the specific corrective action the facility is taking, or plans to take, to abate, eliminate, or correct the violation cited in the notice.
- 2) A description of the steps which will be taken to avoid future occurrences of the same and similar violations.
- 3) A specific date by which the corrective action will be completed.
- d) Submission of a plan of correction shall not be considered an admission by the facility that the violation has occurred.
- e) The Department shall review each plan of correction to insure that it provides for the abatement, elimination, or correction of the violation. The Department shall reject a submitted plan only if it finds any of the following deficiencies:
  - 1) The plan does not appear to address the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences.
  - 2) The plan is not specific enough to indicate the actual actions the facility will be taking to abate, eliminate, or correct the violation.
  - 3) The plan does not provide for measures which will abate or eliminate, or correct the violation.
  - 4) The plan does not provide steps which will avoid future

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Section 390.278(e)(4) (continued)

occurrences of the same and similar violations.

- 5) The plan does not provide for timely completion of the corrective action, considering the seriousness of the violation, any possible harm to the residents, and the extent and complexity of the corrective action.
- f) When the Department rejects a submitted plan of correction, it shall notify the facility. The notice of rejection shall be in writing and shall specify THE REASON FOR THE REJECTION. THE FACILITY SHALL HAVE ~~40~~ TEN DAYS AFTER RECEIPT OF THE NOTICE OF REJECTION TO SUBMIT A MODIFIED PLAN.
- g) If a facility fails to submit a plan or modified plan meeting the criteria in subsection (c) within the prescribed time periods in subsection (a) or subsection (d), AN APPROVED PLAN OF CORRECTION WILL BE IMPOSED BY THE DEPARTMENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-303(b))
- h) The Department shall verify the completion of the corrective action required by the plan of correction within the specified time period during subsequent investigations, surveys and evaluations of the facility.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 390.280 Reports of Correction

- a) In lieu of submission of a plan of correction, a facility may submit a report of correction if the corrective action has been completed. The report of correction must be submitted within the time periods required in Section 390.278 for submission of a plan of correction.
- b) Each report of correction shall be based on an assessment by the facility of the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each report of correction shall include:
  - 1) A description of the specific corrective action the facility has taken to abate, eliminate, or correct the violation cited in the notice.

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Section 390.280(b) (continued)

- 2) A description of the steps which have been taken to avoid future occurrences of the same and similar violations.
- 3) The specific date on which the corrective action was completed.
- 4) A signed statement by the administrator of the facility that the report of correction is true and accurate, which shall be considered an oath for the purposes of any legal proceedings.
- c) Submission of a report of correction shall not be considered an admission by the facility that the violation has occurred.
- d) The Department shall review and approve or disapprove the report of correction based on the criteria outlined in Section 390.278(d) for review of plans of correction. If a report of correction is disapproved, the facility shall be subject to a plan of correction imposed by the Department as provided in Section 390.278.
- e) The Department shall verify the completion of the corrective action outlined in the report of correction during subsequent investigations, surveys and evaluations of the facility.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 390.282 Conditions for Assessment of Penalties

The Department shall consider the assessment of a monetary penalty against a facility under the following conditions:

- a) When a notice of violation for a level A violation is issued.
  - 1) The penalty to be assessed for this violation shall be the greater of the following:
    - A) An amount NOT LESS THAN \$5000 as determined by the Director or his designee considering the factors outlined in Section 390.286(a), or
    - B) The total of the following:
      - 1) \$5 PER RESIDENT IN THE FACILITY, PLUS
      - 11) \$.20 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE DAY ON WHICH THE NOTICE OF VIOLATION



## Section 390.282(a)(1)(B)(i) (continued)

IS RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(1))

- 2) The facility shall also be issued a conditional license for a period of six months as provided in Section 390.260.
- b) When a facility fails to abate or eliminate a level A violation immediately or within the period set by the Department in the notice of violation pursuant to Section 390.276(a)(4)(A).
  - 1) The facility shall be cited for a repeat violation.
  - 2) The penalty to be assessed shall be three times the penalty computed under subsection (a)(1) of this Section.
  - 3) The license of the facility shall be revoked as provided in Section 390.180.
- c) When a notice of violation for a level B violation is issued.
  - 1) The penalty to be assessed for this violation shall be the greater of the following:
    - A) An amount NOT LESS THAN \$500 as determined by the Director or his designee considering the factors outlined in Section 390.286(a), or
    - B) The total of the following:
      - 1) \$3 PER RESIDENT IN THE FACILITY, PLUS
      - 11) \$.15 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE DAY ON WHICH THE NOTICE OF VIOLATION IS RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(2))
  - 2) Upon acceptance of a plan of correction by the Department, assessment of the penalty shall be suspended by the Department. No additional penalty shall be imposed for days during which the plan of correction is in effect.
- d) When a facility fails to correct a level B violation within the time period specified in the plan of correction approved by the Department.

## Section 390.282(d) (continued)

- 1) The facility shall be cited for a repeat violation.
- 2) The penalty to be assessed shall be computed in accordance with subsection (c)(1) of this Section. Days during which the plan of correction was in effect shall be included in the calculation of the penalty.
- 3) The facility shall also be issued a conditional license for a period of at least six months as provided in Section 390.260.
- e) ~~When a facility fails to implement the corrective action required in the plans of correction for ten or more level C violations within the time period required in the plans of correction approved by the Department and fails to substantially address the issues raised by the violations routinely throughout the facility.~~
  - 1) ~~The facility shall be cited for repeat violations.~~
  - 2) ~~The penalty to be assessed shall be calculated as the total of the following:~~
    - A) ~~\$1.50 PER RESIDENT IN THE FACILITY, PLUS~~
    - B) ~~\$.10 PER RESIDENT FOR EACH DAY OF THE REPEAT VIOLATIONS, COMMENCING ON THE DAY ON WHICH THE NOTICE OF THE REPEAT VIOLATIONS ARE RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 4153-305(3))~~

- e) ~~f)~~ WHEN A NOTICE OF VIOLATION IS ISSUED FOR A VIOLATION OF ARTICLE II OF THE ACT (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-101 through par. 4152-212) WITH REGARD TO THE RIGHTS OF A PARTICULAR RESIDENT OF THE FACILITY, THE DEPARTMENT SHALL ORDER THE FACILITY TO REIMBURSE THE RESIDENTS FOR ANY INJURIES INCURRED OR IF THE AMOUNT OF THE INJURIES IS LESS THAN \$100, THE DEPARTMENT SHALL ORDER THE FACILITY TO PAY \$100 TO THE RESIDENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(6-7))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.284 Calculation of Penalties

- a) For the purpose of calculating penalties as provided in Section 390.282, EACH DAY ON WHICH A VIOLATION CONTINUES TO EXIST AFTER THE

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## Section 390.284(a) (continued)

DAY ON WHICH NOTICE OF THE VIOLATION IS RECEIVED BY THE FACILITY SHALL BE CONSIDERED A SEPARATE VIOLATION. The Department shall not be required to send additional notices of violation to the facility for such continuing violations. (Ill. Rev. Stat. ~~1995~~ 1987, ch. 111 1/2, par. 4153-302)

- b) For purposes of calculating penalties as provided in Section 390.282, THE NUMBER OF RESIDENTS IN THE FACILITY AND THE NUMBER OF RESIDENTS ON EACH DAY SHALL BE CALCULATED AS THE AVERAGE NUMBER OF RESIDENTS IN THE FACILITY DURING THE ~~THIRTY~~ 30 DAYS IMMEDIATELY PRECEDING THE DAY ON WHICH THE FINDINGS WERE MADE IN THE FACILITY AND THE CONDITIONS OR OCCURRENCES DETERMINED TO BE A VIOLATION WERE DISCOVERED. The number of residents in the facility on the day on which the findings were made in the facility will be considered to be the same as the average number of residents in the facility during the preceding ~~thirty~~ 30 days, unless evidence is provided by the facility substantiating that the average number of residents for that period was different. Changes in the number of residents in the facility subsequent to the day on which the findings were made shall not be considered in the calculation. (Ill. Rev. Stat. ~~1995~~ 1987, ch. 111 1/2, par. 4153-305(~~5~~—6))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.286 Determination to Assess Penalties

- a) The Director or his designee shall consider the following factors in determining whether or not to assess penalties for violations under the conditions outlined in Section 390.282.

- 1) THE SEVERITY OF HARM, INCLUDING DEATH OR SERIOUS PHYSICAL OR MENTAL HARM, WHICH HAS RESULTED TO A RESIDENT AND THE EXTENT TO WHICH RESIDENTS HAVE BEEN SUBJECT TO POTENTIAL SERIOUS HARM. A penalty will be assessed when the Director or his designee finds that death or serious physical or mental harm to a resident has occurred or that the facility has knowingly subjected residents to potential serious harm.
- 2) THE GRAVITY OF THE VIOLATION AND THE EXTENT TO WHICH THE PROVISIONS OF THE ACT OR RULES WERE VIOLATED. The Director or his designee will assess a monetary penalty if he finds that the violation occurred or continued, is widespread throughout the facility or evidences flagrant violation or the Act or these rules.

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## Section 390.286(a) (continued)

- 3) THE EXTENT AND SERIOUSNESS OF ANY PREVIOUS VIOLATIONS COMMITTED BY THE FACILITY AND THE EXTENT OF DILIGENCE EXERCISED BY THE FACILITY TO CORRECT SUCH VIOLATIONS. The Director or his designee will assess a penalty when he finds that the facility has been cited for similar violations and has failed to correct such violations as promptly as practicable or has failed to exercise diligence in taking necessary corrective action. The Director or his designee will also consider any evidence that the violations constitute a pattern of deliberate action by the facility. The extent of any change in the ownership and management of the facility will be considered in relation to the seriousness of previous violations.
- 4) ANY POSSIBLE FINANCIAL BENEFIT THE FACILITY COULD GAIN AS A RESULT OF COMMITTING OR CONTINUING THE VIOLATION. Such benefits include, but are not limited to, diversion of costs associated with physical plant repairs, staff salaries, consultant fees, or direct patient care services. (Ill. Rev. Stat. ~~1995~~ 1987, ch. 111 1/2, par. 4153-306)
- b) If the Director or his designee determines that a penalty is to be assessed, a written notice of penalty assessment shall be sent to the facility ~~by registered mail~~. Each notice of penalty assessment shall include:
  - 1) THE AMOUNT OF THE PENALTY being assessed as provided in Section 390.282.
  - 2) The amount of any reduction or whether the penalty has been waived pursuant to Section 390.288.
  - 3) A description of THE VIOLATION, including a reference to the notices of violation and plans of correction which are the basis of the assessment.
  - 4) A citation to the provision of THE ACT OR THE RULE which the facility has violated.
  - 5) A description of the right of the facility to appeal the assessment and of the RIGHT OF THE FACILITY TO A HEARING.
  - 6) For violations which are continuing at the time the notice of assessment, THE AMOUNT OF ADDITIONAL PENALTIES PER DAY which will be assessed. (Ill. Rev. Stat. ~~1995~~ 1987, ch. 111 1/2, par. 4153-307)



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## Section 390.286 (continued)

- c) Penalties shall be paid by the facility to the Department within the time periods provided in Section 3-310 of the Act. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-310)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.288 Reduction or Waiver of Penalties

- a) Reductions for all types of violations subject to penalties.

- 1) The Director or his designee shall consider the factors contained in Section 390.286(a) in determining whether to reduce the amount of the penalty to be assessed from the amount calculated pursuant to Section 390.284 and in determining the amount of such reduction.

- 2) When the Director or his designee finds that correction of a violation required capital improvements or repairs in the physical plant of the facility and the facility has a history of compliance with physical plant requirements, the penalty will be reduced by the amount of the cost of the improvements or repairs. This reduction, however, shall not reduce the penalty for a level A violation to an amount less than \$1000.

- b) Reductions and waivers for level B violations.

- 1) Penalties resulting from level B violations may be reduced or waived only under one of the following conditions:

- A) THE FACILITY SUBMITS A REPORT OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, and the report is subsequently verified by the Department.
- B) THE FACILITY SUBMITS A PLAN OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, the plan is approved by the Department, THE FACILITY SUBMITS A REPORT OF CORRECTION WITHIN ~~FIFTEEN~~ 15 DAYS after submission of the plan or correction, and the report is subsequently verified by the Department.

- C) THE FACILITY SUBMITS A PLAN OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, THE PLAN PROVIDES FOR CORRECTION WITHIN NOT MORE THAN ~~THIRTY~~ 30 DAYS after submission of the plan of correction, and THE

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## Section 390.288(b)(1)(C) (continued)

## PLAN IS APPROVED BY THE DEPARTMENT.

- D) Correction of the violation requires substantial capital improvements or repairs in the physical plant of the facility, THE FACILITY SUBMITS A PLAN OR CORRECTION INVOLVING SUBSTANTIAL CAPITAL COSTS, THE PLAN OF CORRECTION PROVIDES COMPLETION OF THE CORRECTIVE ACTION WITHIN ~~NINETY~~ 90 DAYS after submission of the plan, and the plan is approved by the Department. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-308)

- 2) Under these conditions, the Director or his designee shall consider the factors outlined in Section 390.286(a) in determining whether to reduce or waive the penalty and in setting the amount of any reduction.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.290 Quarterly List of Violators

- a) THE DEPARTMENT SHALL PREPARE ON A QUARTERLY BASIS A LIST CONTAINING THE NAMES AND ADDRESSES OF ALL FACILITIES AGAINST WHICH THE DEPARTMENT DURING THE PREVIOUS QUARTER HAS:

- 1) Issued a NOTICE OF PENALTY ASSESSMENT for a level A violation as provided in Section 390.286 and Section 3-305(1) of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-305(1)). ~~sent a notice under Section 3-307 regarding a penalty assessment under subsections (1), (3), (4) or (5) of Section 3-305.~~
- 2) Issued a NOTICE OF REVOCATION of the facility's license as provided in Section 390.180 and ~~sent a notice of license revocation under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119).
- 3) Issued a NOTICE REFUSING RENEWAL of the facility's license as provided in Section 390.175 and ~~sent a notice refusing renewal of a license under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119).
- 4) Issued a NOTICE TO SUSPEND the facility's license as provided in ~~sent a notice to suspend a license under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119).

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## Section 390.290(a) (continued)

## Section 390.290(b) (continued)

5) ISSUED A CONDITIONAL LICENSE to the facility based on violations which were NOT CORRECTED as provided in Section 390.260 and Section 3-313 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119). ~~Issued a conditional license for violations and penalties described under Sections 3-301 and 3-303.~~

6) PLACED A MONITOR IN THE FACILITY as provided in Section 390.270 and Section 3-501 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-501) for one of the following reasons: ~~placed a monitor under subsections (a), (b), and (c) of Section 3-501 and under subsection (d) of such Section where license revocation or non-renewal notices have also been issued.~~

A) The facility is operating without a license.

B) The Department has revoked or refused to renew the license of the facility.

C) The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure.

D) The Department determines that an emergency exists and HAS ISSUED A NOTICE OF REVOCATION OR NONRENEWAL against the facility's license.

7) INITIATED AN ACTION TO APPOINT A RECEIVER. ~~1~~

8) RECOMMENDED TO THE DIRECTOR OF THE DEPARTMENT OF PUBLIC AID, OR THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE DECERTIFICATION FOR VIOLATIONS IN RELATION TO PATIENT CARE OF A FACILITY PURSUANT TO TITLES XVIII AND XIX (42 U.S.C. Sections 1395 et seq. and 1396 et seq.) OF THE FEDERAL SOCIAL SECURITY ACT. (Ill. Rev. Stat. 1985-Supp. 1987, ch. 111 1/2, par. 4153-304(a))

b) IN ADDITION TO THE NAME AND ADDRESS OF THE FACILITY, THE LIST SHALL INCLUDE THE NAME AND ADDRESS OF THE PERSON OR LICENSEE AGAINST WHOM THE ACTION HAS BEEN INITIATED, A SELF-EXPLANATORY SUMMARY OF THE FACTS WHICH WARRANTED THE INITIATION OF EACH ACTION, THE TYPE OF ACTION INITIATED, THE DATE OF THE INITIATION OF THE ACTION, THE AMOUNT OF THE PENALTY SOUGHT TO BE ASSESSED, IF ANY, AND THE FINAL

DISPOSITION OF THE ACTION, IF COMPLETED. (Ill. Rev. Stat. 1985-Supp. 1987, ch. 111 1/2, par. 4153-304(b))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.300 Alcoholism Treatment Programs in Long-Term Care Facilities

a) A long-term care facility that desires to provide an alcoholism treatment program must first receive written approval from ~~both the Department division of health facilities surveillance and the division of health facilities standards.~~ Such approval will be granted only if it can be shown that such program will not interfere in any way with the residents in the other parts of the facility. ~~(C)~~

b) Any alcoholism treatment program in a long-term care facility must meet the program standards of the rules for Alcoholism and Substance Abuse Treatment, Intervention and Research Programs ~~Alcoholism and Intoxication Treatment Programs~~ (77 Ill. Adm. Code 2058 ~~200~~), as promulgated by the Illinois Department of Alcoholism and Substance Abuse ~~Public Health~~ under the Illinois Alcoholism and Other Drug Dependency Act ~~Alcoholism Treatment Licensing Act~~. (Ill. Rev. Stat. ~~1979~~ 1987, ch. 111 1/2, par. ~~2301~~ 1-101 et seq.) ~~(C)~~

c) The alcoholism treatment program must be in a completely separate distinct part of the long-term care facility, and must include all beds in that distinct part. It must be completely separated from the rest of the facility, and have separate entrances. ~~(C)~~

d) Beds designated for alcoholism treatment cannot be used for long-term care residents, nor can beds designated for long-term care residents be used for residents undergoing treatment for alcoholism. ~~(C)~~

e) The alcoholism treatment program staff will not be utilized in performing services in the long-term care area of the facility, nor will long-term care program staff be utilized to provide any services in the alcoholism treatment designated area. ~~(C)~~

f) There may be joint use of laundry, food service, housekeeping and administrative services, provided written approval is obtained from the Department ~~Division of Health Facilities Surveillance~~. Such approval will be granted only if it can be shown that such joint



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usage will not interfere in any way with the residents in other parts of the facility. ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.310 Department may Survey Facilities Formerly Licensed

THE DEPARTMENT MAY SURVEY ANY FORMER FACILITY WHICH ONCE HELD A LICENSE TO ENSURE THAT THE FACILITY IS NOT ~~AGAIN~~ OPERATING WITHOUT A LICENSE.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.320 Waivers

a) UPON APPLICATION BY A FACILITY, THE DIRECTOR MAY GRANT OR RENEW THE WAIVER OF THE FACILITY'S COMPLIANCE WITH A RULE OR STANDARD FOR A PERIOD NOT TO EXCEED THE DURATION OF THE CURRENT LICENSE OR, IN THE CASE OF AN APPLICATION FOR LICENSE RENEWAL, THE DURATION OF THE RENEWAL PERIOD.

b) THE WAIVER MAY BE CONDITIONED UPON THE FACILITY TAKING ACTION PRESCRIBED BY THE DIRECTOR AS A MEASURE EQUIVALENT TO COMPLIANCE.

c) IN DETERMINING WHETHER TO GRANT OR RENEW A WAIVER, THE DIRECTOR SHALL CONSIDER:

- 1) THE DURATION AND BASIS FOR ANY CURRENT WAIVER WITH RESPECT TO THE SAME RULE OR STANDARD;
- 2) THE CONTINUED VALIDITY OF EXTENDING THE WAIVER ON THE SAME BASIS;
- 3) THE EFFECT UPON THE HEALTH AND SAFETY OF RESIDENTS;
- 4) THE QUALITY OF RESIDENT, CARE (i.e., whether the waiver would reduce the overall quality of the resident care below that required by the Act or rules in this Part);
- 5) THE FACILITY'S HISTORY OF COMPLIANCE WITH THE RULES AND STANDARDS OF THIS ACT (i.e., the existence of a consistent pattern of violation of the Act or rules of this Part); AND
- 6) THE FACILITY'S ATTEMPTS TO COMPLY WITH THE PARTICULAR RULE OR STANDARD IN QUESTION.

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d) THE DEPARTMENT SHALL RENEW WAIVERS RELATING TO PHYSICAL PLANT STANDARDS ISSUED PURSUANT TO THIS SECTION AT THE TIME OF THE INDICATED REVIEWS, UNLESS IT CAN SHOW WHY SUCH WAIVERS SHOULD NOT BE EXTENDED FOR THE FOLLOWING REASONS:

- 1) THE CONDITION OF THE PHYSICAL PLANT HAS DETERIORATED OR ITS USE SUBSTANTIALLY CHANGED SO THAT THE BASIS UPON WHICH THE WAIVER WAS ISSUED IS MATERIALLY DIFFERENT; OR
- 2) THE FACILITY IS RENOVATED OR SUBSTANTIALLY REMODELED IN SUCH A WAY AS TO PERMIT COMPLIANCE WITH THE APPLICABLE RULES AND STANDARDS WITHOUT SUBSTANTIAL INCREASE IN COST. (Ill. Rev. Stat. ~~1986 Supp.~~ 1987, ch. 111 1/2, par. 4153-303.1).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.330 Definitions

~~a) Each definition is considered to be a separate rule, but they are not given individual numbers because they are listed alphabetically, and numbers would have to be changed each time a new definition was added or deleted.~~

~~b)~~

The terms defined in this Section ~~below~~ are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

ABUSE - ANY PHYSICAL OR MENTAL INJURY OR SEXUAL ASSAULT INFLICTED ON A RESIDENT OTHER THAN BY ACCIDENTAL MEANS IN A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-103)

ACCESS - THE RIGHT TO:

- ENTER ANY FACILITY;
- COMMUNICATE PRIVATELY AND WITHOUT RESTRICTION WITH ANY RESIDENT WHO CONSENTS TO THE COMMUNICATION;
- SEEK CONSENT TO COMMUNICATE PRIVATELY AND WITHOUT RESTRICTION WITH ANY RESIDENT;
- INSPECT THE CLINICAL AND OTHER RECORDS OF A RESIDENT WITH THE EXPRESS WRITTEN CONSENT OF THE RESIDENT;

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OBSERVE ALL AREAS OF THE FACILITY EXCEPT THE LIVING AREA OF ANY RESIDENT WHO PROTESTS THE OBSERVATION.

Act-. The ~~as used in this Part these standards~~, the "Nursing Home Care ~~Reform~~ Act" (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.) ~~of 1979, as amended.~~

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 390.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a level A or level B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

## AFFILIATE MEANS:

WITH RESPECT TO A PARTNERSHIP, EACH PARTNER THEREOF.

WITH RESPECT TO A CORPORATION, EACH OFFICER, DIRECTOR AND STOCKHOLDER THEREOF.

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WITH RESPECT TO A NATURAL PERSON: ANY PERSON RELATED IN THE FIRST DEGREE OF KINSHIP TO THAT PERSON; EACH PARTNERSHIP AND EACH PARTNER THEREOF OF WHICH THAT PERSON OR ANY AFFILIATE OF THAT PERSON IS A PARTNER; AND EACH CORPORATION IN WHICH THAT PERSON OR ANY AFFILIATE OF THAT PERSON IS AN OFFICER, DIRECTOR OR STOCKHOLDER. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-106)

Aide or Orderly - any person providing direct personal care, training ~~and/or~~ or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

APPLICANT - ANY PERSON MAKING APPLICATION FOR A LICENSE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-107)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial ~~aspects~~ aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.

Autism - A syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; Mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.



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Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in these regulations means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a charge nurse is a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under ~~Twenty-Two~~ 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered by the Department of ~~Registration and Education~~ Professional Regulation to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

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Community Living Facility - see Facility, Community Living.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's ~~his~~ life.

Contract - a binding agreement between a resident or the resident's ~~his~~ guardian (or, if the resident is a minor, the resident's ~~his~~ parent) and the facility or its agent.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse. Examples of physical abuse are restraining a resident, striking, slapping, hitting, or withholding food as punishment. Examples of mental abuse are swearing, threatening and seclusion.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Dental Practice Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~2202~~ 2301 et seq.).

Department - as used in these standards means the Illinois Department of Public Health.

Developmentally Disabled - those individuals whose disability is attributable to mental retardation, cerebral palsy, epilepsy, autism, or other pathological conditions which generally originate before such individuals attain age ~~eighteen~~ 18, and which continue, or can be expected to continue, indefinitely, and which constitute a substantial functioning handicap to such individuals.

Developmental Disability - a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairment or combination of mental and physical impairments;

is manifest before age ~~twenty-two~~ 22;

is likely to continue indefinitely;

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results in substantial functional limitations in three  
~~(2)~~ or more of the following areas of major life activities:

- self-care;
- receptive and expressive language;
- learning;
- mobility;
- self-direction;
- capacity for independent living; and
- economic self-sufficiency; and

reflects the persons's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and individually planned and coordinated.

Dietetic Service Supervisor - a person who:

- is a qualified dietitian; or
- is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or
- is a graduate of a Department-approved course that provides ~~property (90)~~ or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or
- has training and experience in food service supervision and management in a military service equivalent in content to the program in paragraph (2) or (3) of this definition.

Dietitian - a person who:

- is eligible for registration by the American Dietetic Association; or

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has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one ~~(1)~~ year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Direct Supervision - means that work is performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

DIRECTOR - THE DIRECTOR OF PUBLIC HEALTH OR HIS DESIGNEE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-110)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

DISCHARGE - THE FULL RELEASE OF ANY RESIDENT FROM A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-111)

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility.

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Equivalent of a Graduate Licensed Practical Nurse - a licensed practical nurse, licensed by waiver who successfully passes the proficiency examination approved by the U.S. Department of Health and Human Services shall be considered the equivalent of a licensed practical nurse who is a graduate of an approved school of practical nursing for the purposes of these standards.



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Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Community Living - a place of residence as limited in these standards for between five ~~(5)~~ and ~~eighty (80)~~ ambulatory adults who are mildly or moderately mentally retarded with a potential for being absorbed into the mainstream of community life.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in these standards is a facility of three ~~(3)~~ or more persons, or distinct part thereof, serving residents of which more than ~~fifty (50)~~ percent are developmentally disabled. Facilities with any number less than ~~fifty (50)~~ percent of developmentally disabled residents, who are determined by the Department with consultation from the Division of Developmental Disabilities, Illinois Department of Mental Health and Developmental Disabilities to need organized social support and training programs, must comply with the program requirements in these minimum Standards.

FACILITY OR LONG-TERM CARE FACILITY - A PRIVATE HOME, INSTITUTION, BUILDING, RESIDENCE, OR ANY OTHER PLACE, WHETHER OPERATED FOR PROFIT OR NOT, OR A COUNTY HOME FOR THE INFIRM AND CHRONICALLY ILL OPERATED PURSUANT TO "THE COUNTY HOME ACT" (Ill. Rev. Stat. ~~1983~~ 1987, ch. ~~53~~ 34, par. ~~61~~ 5361 et seq.), AS NOW OR HEREAFTER AMENDED, OR BY A COUNTY PURSUANT TO "AN ACT IN RELATION TO HOMES FOR THE AGED", APPROVED JULY 21, 1959 (Ill. Rev. Stat. ~~1983~~ 1987, ch. 34, par. 3561 et seq.) as now or hereafter amended, OR ANY SIMILAR INSTITUTION OPERATED BY A POLITICAL SUBDIVISION OF THE STATE OF ILLINOIS, WHICH PROVIDES, THROUGH ITS OWNERSHIP OR MANAGEMENT, PERSONAL CARE, SHELTERED CARE OR NURSING FOR THREE ~~(3)~~ OR MORE PERSONS, NOT RELATED TO THE APPLICANT OR OWNER BY BLOOD OR MARRIAGE. IT INCLUDES SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES AS THOSE

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TERMS ARE DEFINED IN TITLE XVIII AND TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT (42 U.S.C.A. 1395 ET SEQ. AND 1396 ET SEQ.). A "FACILITY" MAY CONSIST OF MORE THAN ONE BUILDING AS LONG AS THE BUILDINGS ARE ON THE SAME TRACT, OR ADJACENT TRACTS OF LAND. HOWEVER, THERE SHALL BE NO MORE THAN ONE "FACILITY" IN ANY ONE BUILDING. "FACILITY" DOES NOT INCLUDE THE FOLLOWING:

A HOME INSTITUTION, OR OTHER PLACE OPERATED BY THE FEDERAL GOVERNMENT OR AGENCY THEREOF, OR BY THE STATE OF ILLINOIS;

A HOSPITAL, SANITARIUM, OR OTHER INSTITUTION WHOSE PRINCIPAL ACTIVITY OR BUSINESS IS THE DIAGNOSIS, CARE, AND TREATMENT OF HUMAN ILLNESS THROUGH THE MAINTENANCE AND OPERATION AS ORGANIZED FACILITIES THEREFORE, WHICH IS REQUIRED TO BE LICENSED UNDER THE "HOSPITAL LICENSING ACT" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 142 et seq.) AS NOW OR HEREAFTER AMENDED; OR

ANY "FACILITY FOR CHILD CARE" AS DEFINED IN THE "CHILD CARE ACT OF 1969" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 23, par. 2211 et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-1113)

Facility, Long-Term Care, for Residents Under ~~Twenty-two (22)~~ Years of Age - when used in these standards is synonymous with a long-term care facility for residents under ~~twenty-two (22)~~ years of age, which facility provided total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical ~~and/or~~ or developmental disabilities.

Facility, Sheltered Care - when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance, and personal care ~~and/or~~ and oversight.

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - sufficient assets to provide adequate

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services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two ~~(2)~~ month period of time.

Full-time - means on duty a minimum of ~~thirty-six (36)~~ hours, four ~~(4)~~ days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

GUARDIAN - A PERSON APPOINTED AS A GUARDIAN OF THE PERSON OR GUARDIAN OF THE ESTATE OR BOTH, OF A RESIDENT UNDER THE "PROBATE ACT OF 1975" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 110 1/2, par. 1-1 et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-114)

Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, or Licensed Practical Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not for profit corporation incorporated under, or qualified as a foreign corporation under, the "General Not For Profit Corporation Act" approved July 17, 1943, as heretofore or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 32, par. ~~163a~~ 101.01 et seq.); or, by a county pursuant to "An Act in relation to homes for the aged", approved July 21, 1959, as heretofore or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 34, par. 3561 et seq.); or, pursuant to a trust or endowment established for nonprofit, charitable purposes,

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and which provides maintenance, personal care, nursing or sheltered care to three ~~(3)~~ or more residents, ninety percent of whom are ~~sixty (60)~~ or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

House Manager - a qualified person on duty ~~forty (40)~~ hours a week managing the Community Living Facility and responsible for its operation and its inhabitants.

Individual Educational Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in these regulations means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1967 Edition).

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for The Developmentally Disabled (ICF/DD's) at least one member of the team shall be a Qualified Mental Retardation Professional.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the "Nursing Home Administrators Licensing and Disciplinary Act" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~3601~~ 3651 et seq.), as now or hereafter amended.

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

LICENSEE - THE PERSON OR ENTITY LICENSED TO OPERATE THE FACILITY AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-115)



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Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's ~~his~~ life.

MAINTENANCE - FOOD, SHELTER, AND LAUNDRY SERVICES. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-116)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of devices such as walkers, crutches, wheelchairs, and wheeled platforms ~~and so forth~~.

Mobile Resident - any resident who is able to move about either independently or with the aid of assistive devices such as walkers, crutches, wheelchairs, and wheeled platforms ~~and so forth~~.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

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## Section 390.330 (continued)

Multidisciplinary - see Interdisciplinary Team.

NEGLECT - A FAILURE IN A FACILITY TO PROVIDE ADEQUATE MEDICAL OR PERSONAL CARE OR MAINTENANCE, WHICH FAILURE RESULTS IN PHYSICAL OR MENTAL INJURY TO A RESIDENT OR IN THE DETERIORATION OF A RESIDENT'S PHYSICAL OR MENTAL CONDITION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-117)

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

NURSE - A REGISTERED NURSE OR A LICENSED PRACTICAL NURSE AS DEFINED IN "THE ILLINOIS NURSING ACT OF 1987" (Ill. Rev. Stat. 1983-1987, ch. 111, par. 3401-3501 et seq.) AS NOW OR HEREFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-118)

Nursing Assistant - Any person who provides nursing care ~~and/or~~ or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of ~~Registration and Education~~ Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable distinct part of a facility consisting of all the beds within the distinct part, but having no more than ~~twenty-five (25)~~ beds, none of which are more than

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## Section 390.330 (continued)

~~one hundred twenty (120)~~ feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered with the Department of ~~Registration and Education~~ Professional Regulation as an occupational therapist under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1993~~ 1987, ch. 111, par. 3701 et seq.).

Occupational Therapy Assistant - a person who is registered with the Department of ~~Registration and Education~~ Professional Regulation as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1993~~ 1987, ch. 111, par. 3701 et seq.).

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Oversight - general watchfulness and appropriate action to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

OWNER - THE INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER PERSON WHO OWNS A FACILITY. IN THE EVENT A FACILITY IS OPERATED BY A PERSON WHO LEASES THE PHYSICAL PLANT, WHICH IS OWNED BY ANOTHER PERSON, "OWNER" MEANS THE PERSON WHO OPERATES THE FACILITY, EXCEPT THAT IF THE PERSON WHO OWNS THE PHYSICAL PLANT IS AN AFFILIATE OF THE PERSON WHO OPERATES THE FACILITY AND HAS SIGNIFICANT CONTROL OVER THE DAY-TO-DAY OPERATIONS OF THE FACILITY, THE PERSON WHO OWNS THE PHYSICAL PLANT SHALL INCUR JOINTLY AND SEVERALLY WITH THE OWNER ALL LIABILITIES IMPOSED ON AN OWNER UNDER THE ACT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-1119)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

~~Person in Need of Mental Treatment - any person who is mentally ill and who, because of illness, is reasonably expected to inflict~~

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## Section 390.330 (continued)

~~serious physical harm upon himself or another in the near future or is unable to provide for his basic physical needs so as to guard himself from serious harm~~

PERSONAL CARE - ASSISTANCE WITH MEALS, DRESSING, MOVEMENT, BATHING, OR OTHER PERSONAL NEEDS, OR GENERAL SUPERVISION AND OVERSIGHT OF THE PHYSICAL AND MENTAL WELL-BEING OF AN INDIVIDUAL, EXCLUSIVE OF NURSING, WHO BECAUSE OF AGE, PHYSICAL OR MENTAL DISABILITY, EMOTIONAL OR BEHAVIOR DISORDER, OR MENTAL RETARDATION IS INCAPABLE OF MAINTAINING A PRIVATE, INDEPENDENT RESIDENCE, OR WHO IS INCAPABLE OF MANAGING HIS PERSON WHETHER OR NOT A GUARDIAN HAS BEEN APPOINTED.

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 (Ill. Rev. Stat. ~~1993~~ 1987, ch. 111, par. ~~4002~~ 4121 et seq.).

Physical Therapy Assistant - a person who has graduated from a two ~~(2)~~ year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered with the Department of ~~Registration and Education~~ Professional Regulation as a physical therapist under the Illinois Physical Therapy License Act (Ill. Rev. Stat. ~~1993~~ 1987, ch. 111 par. ~~4201~~ 4251 et seq.).

Physician - any person licensed by the State of Illinois to practice medicine in all its branches as provided in the "Medical Practice Act of 1987" (Ill. Rev. Stat. ~~1993~~ 1987, ch. 111, par. ~~4401~~ 4400-1 et seq.).

Probationary License - an initial license issued for a period of ~~one hundred twenty (120)~~ days during which time the Department will determine the qualifications of the applicant.

Program Coordinator - a qualified person directly responsible for the overall program, operation and management of a Community Living Facility.

Psychiatrist - a physician who has had at least three ~~(3)~~ years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is registered with the Illinois



## Section 390.330 (continued)

Department of ~~Registration and Education~~ Professional Regulation  
to practice clinical psychology.

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications ~~is~~:

Be a physician licensed by the Department of Professional Regulation to practice medicine or osteopathy.

Be a registered nurse licensed by the Department of Professional Regulation.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

~~a~~ ~~an~~ ~~educator with a degree in education from an accredited program and with specialized training or one (1) year of experience in working with the mentally retarded.~~

~~a~~ ~~physical or occupational therapist who has specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a~~ ~~physician licensed by the State of Illinois to practice medicine or osteopathy and with specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a~~ ~~psychologist with at least a Master's Degree from an accredited program and with specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a~~ ~~registered nurse with a valid current Illinois registration to practice as a registered professional nurse who has specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a~~ ~~speech pathologist or audiologist who has specialized training or one (1) year of experience in treating the mentally~~

## Section 390.330 (continued)

~~retarded.~~

~~a~~ ~~registered social worker with a Bachelor's Degree in social work from an accredited program, or a Bachelor's Degree in a field other than social work and at least three (3) years' social work experience under the supervision of a qualified social worker, and with specialized training or with one (1) year of experience in working with the mentally retarded.~~

~~a~~ ~~therapeutic recreation specialist who is a graduate of an accredited program and eligible for Certification by the National Council for Therapeutic Recreation Certification, and who has specialized training or one (1) year experience working with the mentally retarded.~~

~~a~~ ~~rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification and who has specialized training or one (1) year of experience in treating the mentally retarded.~~

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified, ~~etc.~~ by the State of Illinois, if required.

REASONABLE VISITING HOURS - ANY TIME BETWEEN THE HOURS OF 10 A.M. AND 8 P.M. DAILY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-121)

Registered Nurse - a person with a valid Illinois registration to practice as a registered professional nurse.

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two ~~(2)~~ or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

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## Section 390.330 (continued)

RESIDENT - PERSON RESIDING IN AND RECEIVING PERSONAL CARE FROM A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-122)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

RESIDENT'S REPRESENTATIVE - A PERSON OTHER THAN THE OWNER, OR AN AGENT OR EMPLOYEE OF A FACILITY NOT RELATED TO THE RESIDENT, DESIGNATED IN WRITING BY A RESIDENT TO BE HIS REPRESENTATIVE, OR THE RESIDENT'S GUARDIAN, OR THE PARENT OF A MINOR RESIDENT FOR WHOM NO GUARDIAN HAS BEEN APPOINTED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-123)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Restraint - any physical, mechanical, or chemical means, or the use thereof, that restricts movement of the limbs, head, or body of a resident, except when used as a safety device or as part of a medically prescribed procedure for the treatment of an existing physical disorder or the amelioration of a physical or emotional handicap.

Mechanical restraint is any mechanical device, or use thereof, that so restricts movement.

Physical restraint is the use of personal human force that so restricts movement.

Chemical restraint is the use if any chemical that so restricts movement.

Mechanical supports used to achieve proper body position and balance are not restraints. The partial or total immobilization of a resident for the purpose of performing a medical/surgical procedure is not restraint.

Restriction - the placement of a limitation on a resident's rights, which includes the use of restraints, confinement, aversive stimuli, and time out exceeding ~~fifteen~~ 15 minutes at any one time.

Room - a part of the inside of a facility that is partitioned

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## Section 390.330 (continued)

continuously from floor to ceiling with openings closed with glass or hinged doors.

Safety Device - any equipment or protective device used on a bed, chair, or resident which prevents him from falling or otherwise injuring himself. Examples are: bedside rails, geriatric ~~and/or~~ or adaptive chairs, a wide band ~~(minimum width six (6) inches)~~, vest or sheet applied to prevent falling out of a bed or chair, and hand socks applied to prevent injuring one's self.

Sanitation- the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident in a room which the resident ~~he~~ cannot open.

Self Preservation - the ability to follow directions ~~and/or~~ and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

SHELTERED CARE - MAINTENANCE AND PERSONAL CARE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-124)

Social Worker, Qualified - a person who:

is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act (Ill. Rev. Stat. 1987, ch. 111, par. 6351 et seq.) ~~by the State of Illinois (registered or certified by the Illinois Department of Registration and Education); and~~

is a graduate of a school of social work which has been approved by the Council on Social Work Education (some schools are approved for Bachelor's Degree programs and others for Master's Degree programs); and

has one ~~(1)~~ year of social work experience in a health care setting.

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.



## Section 390.330 (continued)

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

STOCKHOLDER OF A CORPORATION - ANY PERSON WHO, DIRECTLY OR INDIRECTLY, BENEFICIALLY OWNS, HOLDS OR HAS THE POWER TO VOTE, AT LEAST FIVE PERCENT ~~51~~ OF ANY CLASS OF SECURITIES ISSUED BY THE CORPORATION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-125)

Story - when used in these regulations means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

STUDENT INTERN - MEANS ANY PERSON WHOSE TOTAL TERM OF EMPLOYMENT IN ANY FACILITY DURING ANY 12-MONTH PERIOD IS EQUAL TO OR LESS THAN 90 CONTINUOUS DAYS, AND WHOSE TERM OF EMPLOYMENT IS EITHER:

AN ACADEMIC CREDIT REQUIREMENT IN A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION: OR

IMMEDIATELY SUCCEEDS A FULL QUARTER, SEMESTER OR TRIMESTER OF ACADEMIC ENROLLMENT IN EITHER A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION, PROVIDED THAT SUCH PERSON IS REGISTERED FOR ANOTHER FULL QUARTER, SEMESTER OR TRIMESTER OF ACADEMIC ENROLLMENT IN EITHER A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION WHICH QUARTER, SEMESTER OR TRIMESTER WILL COMMENCE IMMEDIATELY FOLLOWING THE TERM OF EMPLOYMENT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-125.1)

Substantial - meeting requirements except for variance from the strict and literal performance which result in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 390.280(q)(8), 390.280(k)(2) and 390.280(k)(4).

Substantial failure - the failure to meet requirements other than a variance from the strict and literal performance which result in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 390.180(b)(1) and 390.260(f).

Sufficient - Same as adequate.

Supervision - authoritative procedural guidance by a qualified person

## Section 390.330 (continued)

For the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in regulations, the supervisor must be on the premises if the person does not meet assistant level (two ~~22~~ year training program) qualifications specified in these definitions.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

TITLE XVIII - TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT AS NOW OR HEREFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-126)

TITLE XIX - TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT AS NOW OR HEREFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-127)

TRANSFER - A CHANGE IN STATUS OF A RESIDENT'S LIVING ARRANGEMENTS FROM ONE FACILITY TO ANOTHER FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-128)

TYPE A VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY PRESENTING A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS MENTAL OR PHYSICAL HARM TO A RESIDENT WILL RESULT THEREFROM. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-129)

TYPE B VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY DIRECTLY THREATENING TO THE HEALTH, SAFETY OR WELFARE OF A RESIDENT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-130)

~~TYPE C VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY WHICH INDIRECTLY THREATENS THE HEALTH, SAFETY OR WELFARE OF A RESIDENT.~~

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## Section 390.330 (continued)

Unit - an entire physically identifiable residence area, in Community Living Facilities consisting of not less than five ~~(5)~~ nor more than ~~twenty (20)~~ beds, and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective regulations governing the approved levels of service

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

~~Universal Sanitizer - an apparatus for sanitizing unwrapped bulky type utensils by using boiling water and steam heat not under pressure.~~

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.340 Incorporated and Referenced Materials

a) The following regulations, standards, and statutes are incorporated or referenced in this Part:

1) Private and professional association standards:

A) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1980), which may be obtained from the American Dietetic Association, 430 North Michigan Avenue, Chicago, Illinois 60611.

B) American National Standards Institute, Standard A17.1-84: Safety Code for Elevators and Escalators (1985), which may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 325 East 47th Street, New York, New York 10017.

C) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (1977), which may be obtained from the National Association of American Society of Heating, Refrigerating, and Air Conditioning, United Engineering Center, 345 East 47th

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## Section 390.340(a)(1)(C) (continued)

Street, New York, New York 10017.

D) The following standards of the American Society for Testing and Materials (ASTM):

i) Standard No. E-84-1977A: Method of Test for Surface Burning Characteristics of Building Materials.

ii) Standard No. E90-1975: Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions.

E) International Conference of Building Officials, Uniform Building Code (1976 and 1982).

F) National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and the following additional standards, which may be obtained from National Fire Protection Association, Battery Park, Quincy, Massachusetts 02269:

i) No. 10 (1978): Standards for Portable Extinguishers

ii) No. 13 (1980): Standards for the Installation of Sprinkler Systems

iii) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems

iv) No. 70 (1981): National Electric Code

v) No. 90A (1978): Installation of Air Conditioning and Ventilating Systems

vi) No. 96 (1980): Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment

vii) No. 220 (1979): Standards Types of Building Construction

viii) No. 253 (1978): Flooring Radiant Heat Energy Test

ix) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials



## Section 390.340(a)(1) (continued)

- G) Compressed Gas Association, Pamphlet P-2.1: Standard for Medical-Surgical Vacuum Systems in Hospitals (1976).
- H) Underwriters' Laboratory, Inc., Fire Resistance Index, Building Material Directory, and Standard No. 181 (1974): Factory Made Air Duct Materials and Air Duct Connectors.
- I) American Medical Record Association, Requirements for Medical Record Practitioners (1985), which may be obtained from the American Medical Record Association, John Hancock Center, Suite 1850, 875 North Michigan, Chicago, Illinois 60611.
- J) Commission on Rehabilitation Counselor Certification, Requirements for Rehabilitation Counselor Certification (1986), which may be obtained from the Commission on Rehabilitation Counselor Certification, 1156 Shore Drive, Room 350, Arlington Heights, Illinois 60004.
- K) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302.
- L) Council on Social Work Education, Requirements for an Approved School of Social Work (1983), which may be obtained from the Council on Social Work Education, 111 Eighth Avenue, New York, New York 10011.
- 2) Federal statutes and regulations:
- A) Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)
- B) Social Security Act (42 U.S.C. 301 et seq.)
- C) U.S. Public Health Service, Guidelines for the Prevention and Control of Nosocomial Infections, which includes the following guidelines and may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333.
- 1) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (February 1981).

## Section 390.340(a)(2)(C) (continued)

- ii) Guideline for Hospital Environmental Control (February 1981, Revised July 1982).
- iii) Guideline for Prevention of Intravascular Infections (October 1981).
- iv) Guideline for Prevention of Surgical Wound Infections (March 1982).
- v) Guideline for Prevention of Nosocomial Pneumonia (July 1982).
- vi) Guideline for Isolation Precautions in Hospitals (July 1983).
- vii) Guideline for Infection Control in Hospital Personnel (July 1983).
- ~~C) U.S. Public Health Service, Food Service Sanitation Manual (1985).~~
- ~~D) U.S. Public Health Service, Isolation Techniques for Use in Hospitals (1985).~~
- 3) State of Illinois Statutes:
- A) Alcoholism Treatment Licensing Act (Ill. Rev. Stat. 1985-1987, ch. 111 1/2, par. 2301 et seq.)
- B) Boiler and Pressure Vessel Safety Act (Ill. Rev. Stat. 1985-1987, ch. 111 1/2, par. 3201 et seq.)
- C) Child Care Law of 1969 (Ill. Rev. Stat. 1985-1987, ch. 23, par. 2211 et seq.)
- D) Civil Practice Act (Ill. Rev. Stat. 1985-1987, ch. 110, par. 2-101 et seq.)
- E) AN ACT to create the Court of Claims, to prescribe its powers and duties, and to repeal an Act herein named (Ill. Rev. Stat. 1985-1987, ch. 37, par. 439.1 et seq.)
- F) The Illinois Dental Practice Act (Ill. Rev. Stat. 1985-1987, ch. 111, par. 2301 et seq.)

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## Section 390.340(a)(3) (continued)

- G) The Election Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 46, par. 1-1 et seq.)
- H) Freedom of Information Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 116, par. 201 et seq.)
- I) General Not for Profit Corporation Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 32, par. ~~163a~~ 101.01 et seq.)
- J) AN ACT in relation to homes for the aged (Ill. Rev. Stat. ~~1985~~ 1987, ch. 34, par. 3561 et seq.)
- K) Hospital Licensing Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 142 et seq.)
- L) Illinois Controlled Substances Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 56 1/2, par. 1100 et seq.)
- M) Illinois Health Facilities Planning Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 1151 et seq.)
- N) Illinois Municipal Code (Ill. Rev. Stat. ~~1985~~ 1987, Article I, Division 3 ch. 24, pars. 1-3-1 through 1-3-6)
- O) Life Care Facilities Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4160-1 et seq.)
- P) Local Governmental and Governmental Employees Tort Immunity Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 85, par. 1-101 et seq.)
- Q) Medical Practice Act of 1987 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~4401~~ 4400-1 et seq.)
- R) Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 91 1/2, par. 1-100 et seq.)
- S) The Illinois Nursing Act of 1987 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~3401~~ 3501 et seq.)
- T) Nursing Home Administrators Licensing and Disciplinary Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~3601~~ 3651 et seq.)
- U) Nursing Home Care ~~Reform~~ Act ~~of 1979~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. 1-101 et seq.)

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## Section 390.340(a)(3)(U) (continued)

- Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4151-101 et seq.)
- V) Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. 3701 et seq.)
- W) Pharmacy Practice Act of 1987 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~4901~~ 4121 et seq.)
- X) Illinois Physical Therapy Act of 1985 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. 4251 et seq.)
- Y) Private Sewage Disposal Licensing Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 116.301 et seq.)
- Z) Probate Act of 1975 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 110 1/2, par. 1-1 et seq.)
- AA) The Illinois Public Aid Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 23, par. 1-1 et seq.)
- BB) Safety Glazing Materials Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 3101 et seq.)
- CC) The School Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 122, par. 1-1 et seq.)
- 4) State of Illinois rules:
  - A) Office of the State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)
  - B) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety Rules and Regulations (41 Ill. Adm. Code 120)
  - C) Capital Development Board, Illinois Accessibility Code ~~Standards Illustrated~~ (71 Ill. Adm. Code 400)
  - D) Department of Public Health, Alcoholism and Intoxication Treatment Programs (77 Ill. Adm. Code 200)
  - E) Department of Public Health, Control of Communicable Diseases (77 Ill. Adm. Code 690)
  - F) Department of Public Health, Food Service Sanitation (77 Ill. Adm. Code 750)



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## Section 390.340(a)(4) (continued)

- G) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890)
- H) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905)
- I) Department of Public Health, Drinking Water Systems (77 Ill. Adm. Code 900)
- J) Department of Public Health, Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
- K) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)
- L) Department of Public Aid, Access to Cost Reports (89 Ill. Adm. Code 140.544)
- M) Department of ~~Registration and Education~~ Professional Regulation, Controlled Substance Act (77 Ill. Adm. Code 1650)
- N) Department of Transportation, Regulation of Construction within Flood Plains (92 Ill. Adm. Code 706)
- b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- c) All citations to federal regulations in this Part concern the specified regulation in the 1986 Code of Federal Regulations, unless another date is specified.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: ADMINISTRATION

## Section 390.500 Administrator

- a) There shall be an full-time administrator licensed under the "Illinois Nursing Home Administrators Licensing Act" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~3601~~ 3651 et seq.) for each licensed facility. The administrator shall be a high school graduate or

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## Section 390.500(a) (continued)

- equivalent and at least ~~eighteen~~ ~~(18)~~ years of age. The licensee will report any change in administrator to the Department, within five ~~(5)~~ days. (B ~~3~~ ~~6~~)
- b) The administrator shall delegate in writing adequate authority to a person at least ~~eighteen~~ ~~(18)~~ years of age who is capable of acting in an emergency during his absence. Such administrative assignment shall not interfere with resident care and supervision. The administrator or the person designated by ~~him/her~~ the administrator to be in charge of the facility in ~~his/her~~ the administrator's absence, shall be deemed by the Department to be the agent of the licensee for the purposes of Section 3-212 of the Nursing Home Care Reform Act, which requires Department staff to provide the licensee with a copy of their report before leaving the facility. (B ~~3~~ ~~6~~)
- c) The licensee and the administrator shall be familiar with this Part. They shall be responsible for seeing that the applicable regulations are met in the facility and that employees are familiar with those regulations according to the level of their responsibilities. (A, B ~~3~~ ~~6~~)
- d) The administrator shall arrange for facility supervisory personnel to annually attend appropriate educational programs on supervision, nutrition, and other pertinent subjects. ~~(C)~~
- e) The administrator shall appoint in writing a member of the facility staff to coordinate the establishment of, and render assistance to, the residents' advisory council. ~~(C)~~
- f) If the facility has an assistant administrator, the Department shall be informed of the name and dates of employment and termination of this person. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: POLICIES

## Section 390.610 Management Policies

- a) The facility's governing body shall exercise general direction of the facility and shall establish the broad policies for the facility related to its purpose, objectives, operation, and the welfare of the residents served. ~~(C)~~

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## Section 390.610 (continued)

- b) There shall be established a table of organization showing the major operating programs of the facility, with staff divisions, the administrative personnel in charge of programs and divisions, and their lines of authority, responsibilities and communication. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.620 Resident Care Policies

- a) The facility shall have written policies and procedures governing all services provided by the facility which shall be formulated with the involvement of the administrator. These written policies shall be formulated with the involvement of the medical advisory committee and representatives of nursing and other services in the facility. The policies shall be available to the staff, residents and the public. These written policies shall be followed in operating the facility and shall be reviewed at least annually. ~~(B)(6)~~

- b) These policies shall include:

- 1) A written statement of the philosophy, objectives and goals the facility is striving to achieve. ~~(C)~~
- 2) A written statement linking the facility's role to the "State Plan for the Developmentally Disabled" as filed with the Secretary of State by the Governor's Planning Council for Developmental Disabilities.
- 3) A written statement of the facility's goals for its residents. ~~(C)~~

- 4) A written statement of the facility's concept of its relationship to the parents of its residents or to the surrogates. ~~(C)~~

- 5) A written statement concerning admission, transfer, and discharge of residents including categories of residents accepted and not accepted, residents that will be transferred or discharged, and transfers within the facility from one room to another ~~etc.~~ ~~(C)~~

- 6) A written statement for resident care services including administrative services, physician services, emergency services, personal care and nursing services, dental services,

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## Section 390.620(b)(6) (continued)

(re)habilitative services, physical therapy, occupational therapy, psychology, social services, speech pathology and audiology, organized recreational activity services, work activity ~~and/or~~ and prevocational, dietary services, resident medical records, pharmaceutical services, diagnostic services (including laboratory and x-ray) and educational services. ~~(B)(6)~~

- c) The facility shall have a written agreement with one or more hospitals which indicates that the hospital or hospitals will provide the following services:

- 1) Emergency admissions. ~~(C)~~
- 2) Admission to a hospital of residents from the facility who are in need of hospital care. ~~(C)~~
- 3) Needed diagnostic services. ~~(C)~~
- 4) Any other hospital based services needed by the resident. ~~(C)~~

- ~~-d)~~ There shall be no post mortems performed in the facility. ~~(C)~~

~~-e)~~ There shall be a policy prohibiting blood transfusions, unless the facility is hospital connected and appropriate services are available in case of an adverse reaction to the transfusions. ~~(B)(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.630 Admission and Discharge Policies

- a) Residents shall only be admitted who have had a comprehensive evaluation of their medical history, physical, and psycho/social factors, conducted by an appropriately constituted, interdisciplinary team. No resident determined by professional evaluation to be in need of services not readily available in a particular facility shall be admitted to, or kept in, that facility. Additionally, emotional and cognitive histories shall be evaluated when applicable and available. ~~(B)(6)~~

- b) A facility for persons under ~~twenty-two~~ ~~(22)~~ years of age shall be used exclusively for persons under ~~twenty-two~~ ~~(22)~~ years of age, except when the facility's interdisciplinary team has determined that either initial or continued placement in the facility is



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## Section 390.630(b) (continued)

appropriate due to the resident's physical and mental functioning status, and that the facility has the service resources to meet the needs of the resident. The facility interdisciplinary team shall further determine that placement shall not constitute a serious danger to the other residents. ~~(c)~~

- c) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if a minor, by the resident's parent, or guardian. ~~(c)~~
- d) If a resident insists on and is discharged against medical advice, the facts involved in the situation shall be fully documented in his clinical record. ~~(c)~~
- e) No resident shall be discharged without the concurrence of the attending physician. If such approval is given, the facility shall have the right to discharge or transfer a resident to an appropriate resource in accordance with Sections 3-401 through 3-423 of the Act. ~~(c)~~
- f) No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Section 390.1020(c)(1) through (5) unless the facility is properly staffed and equipped to treat such conditions as approved in writing by the Department. ~~(c)~~
- g) A facility shall not admit more residents than the number authorized by the license issued to it. (B, ~~(c)~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.640 Contract Between Resident and Facility

- a) 1) BEFORE A PERSON IS ADMITTED TO A FACILITY, OR AT THE EXPIRATION OF THE PERIOD OF PREVIOUS CONTRACT, OR WHEN THE SOURCE OF PAYMENT FOR THE RESIDENT'S CARE CHANGES FROM PRIVATE TO PUBLIC FUNDS OR FROM PUBLIC TO PRIVATE FUNDS, A WRITTEN CONTRACT SHALL BE EXECUTED BETWEEN A LICENSEE AND THE FOLLOWING IN ORDER OF PRIORITY:
  - A) THE PERSON, OR IF THE PERSON IS A MINOR, HIS PARENT OR GUARDIAN; OR
  - B) THE PERSON'S GUARDIAN, IF ANY, OR AGENT, IF ANY, AS DEFINED

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## Section 390.640(a)(1)(B) (continued)

IN SECTION 11a-23 OF THE "PROBATE ACT OF 1975", AS NOW OR HEREFTER AMENDED; OR

- C) A MEMBER OF THE PERSON'S IMMEDIATE FAMILY.

- 2) AN ADULT PERSON SHALL BE PRESUMED TO HAVE THE CAPACITY TO CONTRACT FOR ADMISSION TO A LONG-TERM CARE FACILITY UNLESS HE HAS BEEN ADJUDICATED A "DISABLED PERSON" WITHIN THE MEANING OF SECTION 11a-2 OF THE "PROBATE ACT OF 1975", AS NOW OR HEREFTER AMENDED, OR UNLESS A PETITION FOR SUCH AN ADJUDICATION IS PENDING IN A CIRCUIT COURT OF ILLINOIS.

- 3) IF THERE IS NO GUARDIAN, AGENT OR MEMBER OF THE PERSON'S IMMEDIATE FAMILY AVAILABLE, ABLE OR WILLING TO EXECUTE THE CONTRACT REQUIRED BY SECTION 2-202 OF THE ACT AND A PHYSICIAN DETERMINES THAT A PERSON IS SO DISABLED AS TO BE UNABLE TO CONSENT TO PLACEMENT IN A FACILITY, OR IF A PERSON HAS ALREADY BEEN FOUND TO BE A "DISABLED PERSON", BUT NO ORDER HAS BEEN ENTERED ALLOWING RESIDENTIAL PLACEMENT OF THE PERSON, THAT PERSON MAY BE ADMITTED TO A FACILITY BEFORE THE EXECUTION OF A CONTRACT REQUIRED BY THAT SECTION: PROVIDED THAT A PETITION FOR GUARDIANSHIP OR FOR MODIFICATION OF GUARDIANSHIP IS FILED WITHIN 15 DAYS OF THE PERSON'S ADMISSION TO A FACILITY, AND PROVIDE FURTHER THAT SUCH A CONTRACT IS EXECUTED WITHIN ~~10~~ TEN DAYS OF THE DISPOSITION OF THE PETITION.

- 4) NO ADULT SHALL BE ADMITTED TO A FACILITY IF HE OBJECTS, ORALLY OR IN WRITING, TO SUCH ADMISSION, EXCEPT AS OTHERWISE PROVIDED IN CHAPTERS III AND IV OF THE "MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE", AS AMENDED, OR SECTION 11a-14.1 OF THE "PROBATE ACT OF 1975", AS AMENDED.

- 5) If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of the person, within ten ~~(10)~~ days of the effective date of these rules, unless a petition has been filed for guardianship or modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or member of the person's immediate family available, able, or willing to execute the contract at that time, then a contract shall be executed within ten ~~(10)~~ days of the disposition of such petition.

- b) The contract shall be clearly and unambiguously entitled, "Contract

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## Section 390.640(b) (continued)

Between Resident and (name of facility)." ~~(C)~~

- c) A RESIDENT SHALL NOT BE DISCHARGED OR TRANSFERRED AT THE EXPIRATION OF THE TERM OF A CONTRACT, EXCEPT AS PROVIDED IN SECTIONS 3-401 THROUGH 3-423 OF THE ACT. ~~(C)~~
- d) AT THE TIME OF THE RESIDENT'S ADMISSION TO THE FACILITY, A COPY OF THE CONTRACT SHALL BE GIVEN TO THE RESIDENT, HIS GUARDIAN, IF ANY, AND ANY OTHER PERSON WHO EXECUTED THE CONTRACT. ~~(C)~~
- e) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee. ~~(C)~~
- f) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section ~~above~~. If any person other than the principal signatory is to be held individually responsible for payments due under the contract that person shall also sign the contract on a separate signature line labelled "signature of responsible party" or "signature of guarantor." ~~(C)~~
- g) The contract shall include a definition of "responsible party" or "guarantor" which describes in full the liability incurred by any such person. ~~(C)~~
- h) A COPY OF THE CONTRACT FOR A RESIDENT WHO IS SUPPORTED BY NONPUBLIC FUNDS OTHER THAN THE RESIDENT'S OWN FUNDS SHALL BE MADE AVAILABLE TO THE PERSON PROVIDING THE FUNDS FOR THE RESIDENT'S SUPPORT. ~~(C)~~
- i) THE ORIGINAL OR A COPY OF THE CONTRACT SHALL BE MAINTAINED IN THE FACILITY AND BE MADE AVAILABLE UPON REQUEST TO REPRESENTATIVES OF THE DEPARTMENT AND THE DEPARTMENT OF PUBLIC AID. ~~(C)~~
- j) THE CONTRACT SHALL BE WRITTEN IN CLEAR AND UNAMBIGUOUS LANGUAGE AND SHALL BE PRINTED IN NOT LESS THAN 12 POINT TYPE. ~~(C)~~
- k) THE CONTRACT SHALL SPECIFY THE TERM OF THE CONTRACT. ~~(C)~~
- l) 1) THE CONTRACT SHALL SPECIFY THE SERVICES TO BE PROVIDED UNDER THE CONTRACT AND THE CHARGES FOR THE SERVICES.
- 2) A paragraph shall itemize the services and products to be provided by the facility and express the cost of the itemized

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## Section 390.640(1)(2) (continued)

- services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee. ~~(C)~~
- m THE CONTRACT SHALL SPECIFY THE SERVICES THAT MAY BE PROVIDED TO SUPPLEMENT THE CONTRACT AND THE CHARGES FOR THE SERVICES.
- 1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established ~~above~~ in subsection (1) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed then such additional cost shall be specified in the contract. ~~(C)~~
- 2) If the cost of any itemized service or product to be provided by the facility or related institutions to the resident cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract. ~~(C)~~
- n) THE CONTRACT SHALL SPECIFY THE SOURCES LIABLE FOR PAYMENTS DUE UNDER THE CONTRACT.
- o) 1) THE CONTRACT SHALL SPECIFY THE AMOUNT OF DEPOSIT PAID.
- 2) Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions the deposit shall be returned to the resident. If the deposit is nonrefundable the contract shall provide express notice of such nonrefundability. ~~(C)~~



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## Section 390.640 (continued)

p) THE CONTRACT SHALL SPECIFY THE RIGHTS, DUTIES AND OBLIGATIONS OF THE RESIDENT, EXCEPT THAT THE SPECIFICATION OF A RESIDENT'S RIGHTS MAY BE FURNISHED ON A SEPARATE DOCUMENT WHICH COMPLIES WITH THE REQUIREMENTS OF SECTION 2-211 OF THE ACT. ~~(C)~~

q) THE CONTRACT SHALL DESIGNATE THE NAME OF THE RESIDENT'S REPRESENTATIVE, IF ANY. THE RESIDENT SHALL PROVIDE THE FACILITY WITH A COPY OF THE WRITTEN AGREEMENT BETWEEN THE RESIDENT AND THE RESIDENT'S REPRESENTATIVE WHICH AUTHORIZES THE RESIDENT'S REPRESENTATIVE TO INSPECT AND COPY THE RESIDENT'S RECORDS AND AUTHORIZES THE RESIDENT'S REPRESENTATIVE TO EXECUTE THE CONTRACT ON BEHALF OF THE RESIDENT REQUIRED BY SECTION 2-202 OF THE ACT. ~~(C)~~

r) THE CONTRACT SHALL PROVIDE THAT IF THE RESIDENT IS COMPELLED BY A CHANGE IN PHYSICAL OR MENTAL HEALTH TO LEAVE THE FACILITY, THE CONTRACT AND ALL OBLIGATIONS UNDER IT SHALL TERMINATE ON SEVEN ~~(7)~~ DAYS NOTICE. IT SHALL ALSO PROVIDE THAT IN ALL OTHER SITUATIONS, A RESIDENT MAY TERMINATE THE CONTRACT AND ALL OBLIGATIONS UNDER IT WITH ~~THIRTY (30)~~ DAYS NOTICE. ALL CHARGES SHALL BE PRORATED AS OF THE DATE ON WHICH THE CONTRACT TERMINATES, AND, IF ANY PAYMENTS HAVE BEEN MADE IN ADVANCE, THE EXCESS SHALL BE REFUNDED TO THE RESIDENT. THIS PROVISION SHALL NOT APPLY TO LIFE-CARE CONTRACTS THROUGH WHICH A FACILITY AGREES TO PROVIDE MAINTENANCE AND CARE FOR A RESIDENT THROUGHOUT THE REMAINDER OF HIS LIFE NOR TO CONTINUING-CARE CONTRACTS THROUGH WHICH A FACILITY AGREES TO SUPPLEMENT ALL AVAILABLE FORMS OF FINANCIAL SUPPORT IN PROVIDING MAINTENANCE AND CARE FOR A RESIDENT THROUGHOUT THE REMAINDER OF HIS LIFE. ~~(C)~~

s) After July 1, 1982, all facilities which offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the "Life Care Facilities Act," (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4160-1 et seq.) as now or hereafter amended, including the obtaining of a permit from the Department, before they may enter into such contracts. ~~(C)~~

t) IN ADDITION TO ALL OTHER CONTRACT SPECIFICATIONS CONTAINED IN THIS SECTION, ADMISSION CONTRACTS SIGNED OR RENEWED AFTER JULY 1, 1985 SHALL ALSO SPECIFY: ~~(C)~~

- 1) WHETHER THE FACILITY ACCEPTS MEDICAID CLIENTS;
- 2) WHETHER THE FACILITY REQUIRES A DEPOSIT OF THE RESIDENT OR HIS FAMILY PRIOR TO THE ESTABLISHMENT OF MEDICAID ELIGIBILITY;

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## Section 390.640(t) (continued)

3) IN THE EVENT THAT A DEPOSIT IS REQUIRED, A CLEAR AND CONCISE STATEMENT OF THE PROCEDURE TO BE FOLLOWED FOR THE RETURN OF SUCH DEPOSIT TO THE RESIDENT OR THE APPROPRIATE FAMILY MEMBER OR GUARDIAN OF THE PERSON;

4) THAT ALL DEPOSITS MADE TO A FACILITY BY A RESIDENT, OR ON BEHALF OF A RESIDENT, SHALL BE RETURNED BY THE FACILITY WITHIN 30 DAYS OF THE ESTABLISHMENT OF MEDICAID ELIGIBILITY, UNLESS SUCH DEPOSITS MUST BE DRAWN UPON OR ENCUMBERED IN ACCORDANCE WITH MEDICAID ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE ILLINOIS DEPARTMENT OF PUBLIC AID. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4152-202(j))

u) IT SHALL BE A BUSINESS OFFENSE FOR A FACILITY TO KNOWINGLY AND INTENTIONALLY BOTH RETAIN A RESIDENT'S DEPOSIT AND ACCEPT MEDICAID PAYMENTS ON BEHALF OF THE RESIDENT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4152-202(k))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.650 Residents' Advisory Council

a) EACH FACILITY SHALL ESTABLISH A RESIDENTS' ADVISORY COUNCIL consisting of at least five ~~(5)~~ resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. THE ADMINISTRATOR SHALL DESIGNATE ANOTHER ~~A~~ MEMBER OF THE FACILITY STAFF (OTHER THAN ~~HIMSELF/HERSELF~~ THE ADMINISTRATOR) TO COORDINATE THE ESTABLISHMENT OF, AND RENDER ASSISTANCE TO, THE COUNCIL. ~~(C)~~

b) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

- 1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives ~~etc.~~ on the resident advisory council;
- 2) the establishment of a separate community advisory group with persons of the residents' choosing;

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## Section 390.650(b) (continued)

- 3) finding a church or civic group to "adopt" the facility; or,
- 4) the establishment of a family council made up of families and friends of residents who live in the community. ~~(C)~~
- c) The resident members shall be elected to the council by vote of their fellow residents found capable of voting. If a resident is not capable of voting, ~~his/her~~ the resident's parent or guardian shall vote to elect members of the council. If there are not five ~~(5)~~ residents capable of or willing to serve on the council, then nonresident representatives shall be recruited to meet this requirement. ~~(C)~~
- d) In facilities of ~~fifty (50)~~ beds or less, the residents' advisory council may consist of all of the residents (or their parents or guardians) of the facility, if the residents (or their parents or guardians) choose to operate this way.
- e) All resident advisory councils shall elect at least a Chairperson/President and a Vice Chairperson/Vice President from among the members of the council. These persons shall preside at the meetings of the council, assisted by the facility staff person designated by the administrator to provide such assistance. ~~(C)~~
- f) Some facilities may wish to establish mini-resident advisory councils for various smaller units within the facility. If this is done, each such unit shall be represented on an overall facility residents' advisory council with the composition described in subsection (a) of this Section ~~above~~.
- g) All residents' advisory council meetings shall be open to participation by all residents ~~and/or~~ and their representatives. ~~(C)~~
- h) NO EMPLOYEE OR AFFILIATE OF ANY FACILITY SHALL BE A MEMBER OF ANY COUNCIL. Such persons may attend to discuss interests or functions of the non-members when invited by a majority of the officers of the residents' advisory council. ~~(C)~~
- i) THE COUNCIL SHALL MEET AT LEAST ONCE EACH MONTH WITH THE STAFF COORDINATOR WHO SHALL PROVIDE ASSISTANCE TO THE COUNCIL IN PREPARING AND DISSEMINATING A REPORT OF EACH MEETING TO ALL RESIDENTS, THE ADMINISTRATOR, AND THE STAFF.
- j) RECORDS OF THE COUNCIL MEETINGS SHALL BE MAINTAINED IN THE OFFICE OF

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## Section 390.650(j) (continued)

- THE ADMINISTRATOR. ~~(C)~~
- k) THE RESIDENTS' ADVISORY COUNCIL MAY COMMUNICATE TO THE ADMINISTRATOR THE OPINIONS AND CONCERNS OF THE RESIDENT. THE COUNCIL SHALL REVIEW PROCEDURES FOR IMPLEMENTING RESIDENT RIGHTS AND FACILITY RESPONSIBILITIES AND MAKE RECOMMENDATIONS FOR CHANGES OR ADDITIONS WHICH WILL STRENGTHEN ~~AND MAKE RECOMMENDATIONS FOR CHANGES OR ADDITIONS WHICH WILL STRENGTHEN~~ THE FACILITY'S POLICIES AND PROCEDURES AS THEY EFFECT RESIDENTS' RIGHTS AND FACILITY RESPONSIBILITIES.
- 1) THE COUNCIL SHALL BE A FORUM FOR:
  - 1) OBTAINING AND DISSEMINATING INFORMATION;
  - 2) SOLICITING AND ADOPTING RECOMMENDATIONS FOR FACILITY PROGRAMING AND IMPROVEMENTS;
  - 3) EARLY IDENTIFICATION OF PROBLEMS.
  - 4) RECOMMENDING ORDERLY RESOLUTION OF PROBLEMS.
- m) THE COUNCIL MAY PRESENT COMPLAINTS ON BEHALF OF A RESIDENT TO THE DEPARTMENT, OR TO ANY OTHER PERSON IT CONSIDERS APPROPRIATE.  
(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.660 General Policies

- a)
  - 1) The facility shall have policies and procedures, established in writing, that protect the financial interests of residents and, when large sums of money accrue to a resident, provide for counseling the resident or his correspondent concerning its use, and for appropriate protection of such money. These policies and procedures shall permit normalized and normalizing possession and use of money by residents for work payment and property administration as, for example, in performing cash and check transactions, and in buying clothes and other items. ~~(C)~~
  - 2) The administrator, or his designee, shall not pay a resident's bills or make purchases for him unless requested in writing to do so by the resident, his correspondent or by the private or



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## Section 390.660(a)(2) (continued)

public agency financially responsible for his care. (See also Section 390.1640(c))

- b) The facility shall allow daily visiting between 10:00—A.M. and 8:00—P.M. ~~(C)~~
- c) Residents over the age of six ~~(6)~~ years occupying any bedroom shall be of the same sex unless otherwise individually approved by the interdisciplinary team. ~~(C)~~
- d) There shall be no resident traffic through a resident's room by residents to reach any other area of the building. ~~(C)~~
- e) The facility shall provide for the registration and disposition of complaints without threat of discharge or other reprisal against any employee or resident. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.670 Personnel Policies

- a) Each facility shall develop and maintain ~~there shall be~~ written personnel policies which policies are followed in the operation of the facility. ~~that shall include, but are not limited to, the following:~~ These policies shall include at a minimum each of the requirements of this Section. ~~(C)~~

## b) Employee Records

- 1) Employment application forms shall be completed for each employee and kept on file in the facility. They shall be available to Department personnel for review. Individual personnel files for each employee ~~these forms~~ shall contain date of employment, date of birth ~~age or birthdate~~, home address, educational background, past experience including types of employment, where previously employed, type of position employed to fill in this facility, last day employed (if no longer in present facility) and reasons for leaving. ~~(C)~~
- 2) Individual ~~In addition to the application form, the individual~~ personnel file for each employee shall also contain ~~other pertinent personnel data such as~~ health records, including the initial health evaluation required under Section 390.675(a), the results of the tuberculin skin test

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required under Section 390.675(e), and evaluation of performance, and any other pertinent health records. ~~(C)~~

~~2) Each employee shall have a physical examination which has been conducted within a period of ten (10) days before or after employment and annually thereafter. This shall include findings that permit certification that the employee is free of communicable, contagious or infectious diseases. Additional physical examinations may be requested at the discretion of the Department according to the rules for the "Control of Communicable Diseases" (77 Ill. Adm. Code 690), Illinois Department of Public Health. ~~(B, C)~~~~

- ~~A) This initial physical exam shall include documentation—regarding past or present tuberculosis infection,—determined by either a tuberculosis skin test or a chest x-ray taken within one (1) year prior to or ten (10) days after initial employment.~~
- ~~B) Repeat skin tests and/or chest x-rays are not required—unless the employee is exposed to a person with tuberculosis in its contagious stage or has signs and symptoms of disease. However, they are highly recommended, especially for persons residing or working in high risk areas of the State.~~
- ~~C) It is also recommended that employees who have been infected with tuberculosis (positive skin reaction) and have not had a full course of chemoprophylaxis or chemotherapy should complete one (1) year of daily isoniazid (INH) unless contraindicated because of age or physical condition. Depending on their risk of developing disease, as determined by their physician, employees who have been infected and have not been able to complete a full course of preventive treatment should have a chest x-ray annually. ~~(B, C)~~~~

- ~~4) An employee diagnosed or suspected of having a contagious or infectious disease shall not be on duty until such time as a written statement is obtained from a physician that the disease is no longer contagious or is found to be noninfectious. ~~(B, C)~~~~

~~b) General—~~

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~~c) 1)~~ All persons in supervisory or other responsible positions shall be at least ~~eighteen~~ (18) years of age. ~~(C)~~ ~~2)~~ All personnel shall have either training or experience, or both, in the job assigned to them. (B, ~~C~~)

d) Orientation and In-Service Training

~~3)~~ 1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basis of resident safety; and, understanding and communicating with the type of residents being cared for in the facility, such as geriatric, pediatric, developmentally disabled, ~~etc.~~ In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures concerning topics listed in Section 390.620(b)(6) before being assigned to provide direct care to residents. This orientation program shall include material regarding the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.

~~4)~~ 2) All employees, ~~each employee~~ except student interns shall attend in-service training programs ~~covering each of the subjects listed in 77 Ill. Adm. Code 350.620(b)(6)~~ pertaining to ~~his or her~~ their assigned duties at least annually. These in-service training programs shall include material regarding the facility's policies, skill training and ongoing education carried out to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include material concerning prevention and treatment of decubitus ulcers (commonly known as bed sores). In-service training concerning dietary services shall include material concerning effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept. (B, C)

~~5)~~ 3) Employees shall only be assigned duties which are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies. ~~No employee shall be assigned duties other than those directly~~

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Section 390.670(d)(3) (continued)

~~6)~~ ~~related to his job functions, as identified in his job description, except in emergencies. (C)~~

~~7)~~ 4) Personnel policies shall include ~~There shall be~~ a plan to provide ~~a program of~~ personnel coverage for regular staff when they are absent. (A, B)

~~8)~~ 5) Every facility shall have a current dated weekly employee time schedule posted in a convenient place where employees may refer to it. This schedule shall contain employee's name, job title, shift assignment, hours of work and days off. The schedule ~~these~~ shall be kept on file in the facility for one ~~(1)~~ year after the week the schedule was used. ~~(C)~~

e) Student Interns

1) No person who meets the definition of student intern shall be required to complete a current course of training for child care/habilitation aides, or successfully complete the Department's proficiency examination.

2) The facility may utilize interns to perform basic child care/habilitation aide practices, but shall not allow interns to provide rehabilitation nursing, in-bed bathing, assistance with skin care, foot care, enemas, or any medical procedure, except under the direct, immediate supervision of a licensed nurse or certified child care/habilitation aide.

3) No facility shall have more than fifteen percent of its child care/habilitation aide staff positions held by student interns.

(Source: Amended at 12 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.675 Initial Health Evaluation for Employees

a) Each employee shall have an initial health evaluation which shall be used to insure that employees are not placed in positions which would pose undue risk of infection to themselves, other employees, residents, or visitors.

b) The initial health evaluation shall be conducted not more than 30 days prior to the employee beginning employment in the facility. The evaluation shall be completed not more than 30 days after the employee begins employment in the facility.



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## Section 390.675 (continued)

c) The initial health evaluation shall include a health inventory. This inventory shall be obtained from the employee and shall include the employee's immunization status and any available history of conditions which would predispose the employee to acquiring or transmitting infectious diseases. This inventory shall include any history of exposure to, or treatment for, tuberculosis. The inventory shall also include any history of hepatitis, dermatologic conditions, or chronic draining or open wounds.

d) The initial health evaluation shall include a physical examination. The examination shall include at a minimum any procedures needed in order to:

1) Detect any unusual susceptibility to infection and any conditions which would increase the likelihood of the transmission of disease to residents, other employees, or visitors.

2) Determine that the employees appears to be physically able to perform the job functions which the facility intends to assign to the employee.

e) The initial health evaluation shall include a tuberculin skin test which is conducted in accordance with the requirements of Section 390.1035. The test must meet one of the following timeframes:

1) The test must be completed no more than 90 days prior to the date of the initial employment in the facility, or

2) The test must be commenced no more than ten days after the date of initial employment in the facility.

(Source: Added at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.680

## Child Care/Habilitation Aides

~~Basic Child Care/Habilitation Aide Training Program--~~

a) Each of the facility's child care/habilitation aides shall comply with one of the following conditions no later than 45 days after the date of initial employment.

1) Enroll in a 120-hour child care/habilitation aide training program that has been approved by the Department. The program coursework shall be successfully completed by the child care/habilitation aide no later than 120 dates after the date of initial employment.

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## Section 390.680(a) (continued)

2) Register for the Department's child care/habilitation aide proficiency examination which must be successfully completed no later than 120 days after the date of initial employment.

3) Provide documentation of equivalent child care/habilitation aide training in accordance with Section 395.300 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). Such documentation shall be retained by the facility as part of the employee's personnel record.

b) Each person employed by the facility as a child care/habilitation aide shall meet each of the following requirements:

1) Be at least sixteen years of age, of temperate habits and good moral character, honest, reliable and trustworthy.

2) Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents.

3) Provide evidence of employment or occupation, if any, and residence for two years prior to initial employment as a child care/habilitation aide.

4) Have completed at least eight years of grade school or provide proof of equivalent knowledge.

c) The facility shall certify on a form provided by the Department that each child care/habilitation aide employed by the facility meets the requirements of this Section. Such form shall be retained by the facility as part of the employee's personnel record.

d) During inspections of the facility, the Department may require child care/habilitation aides to demonstrate competency in the principles, techniques, and procedures covered by the child care/habilitation aide training program curriculum described in Section 395.220 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall address all of the child care/habilitation aide training principles, techniques, and procedures contained in Section 395.220 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395).

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## Section 390.680 (continued)

- ~~a) 1) Each facility shall ensure that all persons employed as child care/habilitation aides comply with one of the following conditions within 45 days of initial employment: (B, C)~~
- ~~A) Enroll in a 120-hour Department of Public Health approved Basic Child Care/Habilitation Aide Training Program, Basic Nursing Assistant Training Program, or Basic Developmental Disabilities (DD) Aide Training Program. Such course shall be completed within 120 days of initial employment;~~
- ~~B) Attend a recognized Child Care/Habilitation Aide Training Program, Basic Nursing Assistant Training Program, or Basic Developmental Disabilities (DD) Aide Training Program registered with the Department of Public Health and successfully complete the Department's proficiency examination;~~
- ~~C) Successfully complete the Department's proficiency examination; or~~
- ~~D) Prove exemption from training, by prior work experience as outlined in Section 3-206 of the Act.~~
- ~~2) No person who meets the definition of student intern shall be required to complete a current course of training for child care/habilitation aides, or successfully complete the Department's proficiency examination.~~
- ~~3) Interns may be utilized for the more basic child care/habilitation aide practices, but will not be allowed to provide rehabilitation nursing, in-bed bathing, assistance with skin care, foot care, enemas or any medical procedure, except under the direct, immediate supervision of a licensed nurse or certified nursing assistant.~~
- ~~4) No facility will be allowed to have more than 15% of its child care/habilitation aide work force composed of student interns.~~
- ~~b) Requests to establish equivalency shall be submitted to the Department with accompanying documentation. Equivalency may be established by any one of the following: (B)~~
- ~~1) Documentation of successful completion of a training course approved by another state as evidenced by a diploma or~~

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## Section 390.680 (continued)

- ~~certificate (The applicant must document that the course is substantially equivalent to the provisions of Section 390.680(f) of this Part.)~~
- ~~Documentation of successful completion of a Basic Child Care/Habilitation Aide Training Program approved by the Department. Approval will be based upon compliance with the provisions of this Section.~~
- ~~3) Documentation of successful completion of a Basic Nursing Assistant Training Program or a Basic Developmental Disabilities (DD) Aide Training Program approved by the Department.~~
- ~~4) Documentation of successful completion of a nursing arts course in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school.~~
- ~~5) Documentation of successful completion of a nursing assistant training program approved by the Illinois Board of Education between March 1, 1979 and March 1, 1980 as evidenced by a diploma or certificate.~~
- ~~6) Documentation of one year of employment as a nursing assistant in one facility with an interruption due to sick leave or education leave not exceeding six (6) weeks during the year ending March 1, 1980.~~
- ~~c) Criteria for A State Approved Basic Child Care/Habilitation Aide Training Program are as follows:~~
- ~~1) Application procedures~~
- ~~The following information must be furnished to the Department at least sixty (60) days in advance of the training program: Programs submitted and approved under the Home Health Licensing Act shall be deemed to meet these rules and regulations. Each facility providing its own training must apply for individual program approval. Retroactive approval will not be granted.~~
- ~~2) Program rationale; i.e., philosophy, purpose and brief summary that identifies sponsoring agency, and faculty qualifications.~~
- ~~3) Complete outline including program title, objectives, content,~~



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## Section 390.680 (continued)

- ~~and methodology delineated by hour. The instructor has flexibility of teaching content in desired outline.--~~
- ~~4) Location and scheduled dates of program (including future dates). If programs are canceled or rescheduled for any reason, the Department must be notified prior to delivery date for purposes of monitoring.--~~
- ~~5) A copy of the evaluation tool must be included. The evaluation tool must evaluate the objectives, content, clinical performance and instructors.--~~
- ~~6) Submitted materials will be reviewed by the Department and the program sponsor will be notified of the Department's action. If the program is not approved, the reason for this decision will be given to the program sponsor.--~~
- ~~7) If a program is not approved, the program sponsor may, after making the appropriate modifications, reapply for approval.--~~
- ~~8) Orientation to the specific policies of the employing agency shall be in addition to the one hundred twenty (120) hours of instruction.--~~
- ~~9) Any change in content, objectives, or instructional staff must be submitted for review.--~~
- ~~10) All approved training programs must be resubmitted on an annual basis for continued approval. In the resubmission process, please refer to the number assigned by the Department.--~~
- ~~11) A) The course instructor shall be a registered nurse with a current Illinois license who has no other duties while engaged in the training program, and who meets one of the following qualifications:--~~
  - ~~1) Valid Illinois teaching certificate or Community College approved instructor with at least one semester of teaching experience.--~~
  - ~~11) Community College approved instructor;--~~
    - ~~Verification of attendance at the Department Trainer Workshop (TPW's who attended prior to the effective date of the Act shall qualify).--~~

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## Section 390.680 (continued)

- ~~11) Evidence of at least one semester of formal teaching experience.--~~
- ~~B) Instructors' vitae must be submitted.--~~
- ~~12) The basic content must be presented in a minimum time frame of three (3) weeks, but not to exceed a maximum of one hundred twenty (120) days unless it is being done by a recognized educational institution on a term, semester or trimester basis. A minimum of forty (40) hours of theory including supervised laboratory experience and a minimum of forty (40) hours of supervised clinical practice (direct nursing care) must be reflected in the one hundred twenty (120) hours minimum of training. The other forty (40) hours may be distributed whichever way the program wishes between these two (2) categories. Term, semester and trimester courses may be submitted by an educational institution. The program must include designated hours for clinical practice and evidence of agreements with all outside agencies providing such clinical practice.--~~
- ~~d) Course Requirements. The Basic Child Care/Habilitation Aide Training Program shall include at a minimum:--~~
  - ~~1) Orientation.--~~
    - ~~A) Functions of health care facilities.~~
    - ~~B) Health care professions.~~
    - ~~C) Philosophy of resident care.~~
    - ~~D) The role of the interdisciplinary or multidisciplinary health care team.~~
    - ~~E) Personal qualities of the Aide.--~~
    - ~~F) Duties of the Aide.--~~
    - ~~G) Medical terminology.~~
    - ~~H) Record keeping.--~~
    - ~~I) Residents' rights.--~~

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## Section 390.680 (continued)

- ~~2) Introduction to the resident.~~
- ~~A) Communication and interpersonal relationships with residents, families and others.~~
- ~~B) Psychological needs of resident and family.~~
- ~~C) Normal growth and development.~~
- ~~D) Characteristics of developmental disabilities and mental illnesses.~~
- ~~3) Your working environment.~~
  - ~~A) Cleanliness in the health care setting.~~
  - ~~B) Principles of handwashing.~~
  - ~~C) Principles of disinfection.~~
  - ~~D) Principles of sterilization.~~
  - ~~E) Techniques of disinfection.~~
  - ~~F) Maintaining equipment and supplies.~~
- ~~4) Safety.~~
  - ~~A) Body mechanics.~~
  - ~~B) Fire safety.~~
  - ~~C) Disaster.~~
- ~~5) Emergency Medical Procedures.~~
  - ~~A) CPR.~~
  - ~~B) Seizures.~~
  - ~~C) Drug reactions.~~
  - ~~D) Heimlich maneuver.~~
  - ~~E) Trauma.~~

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## Section 390.680 (continued)

- ~~6) The resident's unit.~~
  - ~~-Bedmaking procedures unoccupied and occupied.~~
- ~~7) Lifting, moving and transporting residents.~~
  - ~~A) In bed.~~
  - ~~B) Ambulatory.~~
  - ~~C) Wheelchair.~~
  - ~~D) Stretcher.~~
- ~~8) Basic Anatomy.~~
  - ~~A) Skeletal System.~~
  - ~~B) Circulatory System.~~
  - ~~C) Digestive System.~~
  - ~~D) Respiratory System.~~
  - ~~E) Urinary System.~~
  - ~~F) Functioning of the human body as related to the disease process.~~
- ~~9) Personal care of the resident.~~
  - ~~A) Oral hygiene.~~
  - ~~B) Bathing procedures.~~
  - ~~C) Care of the back, feet and skin.~~
  - ~~D) Observing and reporting.~~
  - ~~E) Personal hygiene.~~
- ~~10) Nutrition.~~
  - ~~A) Diets therapeutic diets.~~
  - ~~B) Feeding techniques.~~



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## Section 390.680 (continued)

- ~~C) Nourishments.~~
- ~~D) Fluid intake.~~
- ~~11) Fluid balance.~~
- ~~A) Measuring fluid intake and output.~~
- ~~B) Forcing and restricting fluids.~~
- ~~C) Specimen collection.~~
- ~~12) Observing and recording vital signs.~~
  - ~~A) Taking the temperature.~~
  - ~~B) Taking pulse.~~
  - ~~C) Taking respirations.~~
  - ~~D) Taking blood pressure.~~
  - ~~E) Recording vital signs.~~
- ~~13) Supportive care.~~
  - ~~A) Heat applications.~~
  - ~~B) Cold applications.~~
  - ~~C) Enemas.~~
  - ~~D) The vaginal douche external and internal.~~
  - ~~E) Preparing the resident for surgery physiologically.~~
  - ~~F) Preparing the resident for surgery psychologically.~~
  - ~~G) Care for the post operative resident's physiological needs.~~
  - ~~H) Care for the post operative resident's psychological needs.~~
  - ~~I) Side effects of various medications.~~
  - ~~14) Fundamentals of Rehabilitation.~~

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## Section 390.680 (continued)

- ~~A) Physical.~~
- ~~B) Social.~~
- ~~C) Psychosocial.~~
- ~~D) Behavioral.~~
- ~~15) Resident care planning.~~
  - ~~A) Individual Habilitation Plan.~~
  - ~~B) Individual Education Plan.~~
  - ~~C) Admission.~~
  - ~~D) Transfer.~~
  - ~~E) Discharge.~~
  - ~~F) Home visits.~~
- ~~16) The resident in isolation.~~
  - ~~A) Isolation techniques.~~
  - ~~B) Physiological aspects of isolation.~~
  - ~~C) Psychological aspects of isolation.~~
- ~~17) Care of the terminally ill resident.~~
  - ~~A) Psychological needs of the resident.~~
  - ~~B) Psychological needs of the family.~~
- ~~18) Care of the body.~~
  - ~~Postmortem care.~~
- ~~e) Evaluation.~~
  - ~~Upon successful completion of the Basic Child Care/Habilitation Aide Training Program, the student must show competency of relevant skills by demonstrating those skills as well as by passing a written examination encompassing theory and skills taught.~~

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## Section 390.680 (continued)

~~(f) Monitoring—~~

~~The Illinois Department of Public Health shall on a random basis monitor the training program. If a monitor finds the training to be inadequate relative to the materials submitted to the Department's Review Committee, program approval may be rescinded.~~

~~(g) Certificates—~~

~~1) Proof of successful completion of the approved program necessitates the sponsoring organization to award certificates to the trainees. Certificates must be sent to the Department where they will be validated and embossed with the Department's seal. A list of names, with Social Security numbers, course completion date, and program approval number, must accompany submitted certificates. The Department will return the certificates to the sponsor(s) for distribution.~~

~~2) The following minimum information must be typed on the certificates before they are sent to the Department for validation.~~

~~A) Name of the trainee and Social Security number.~~

~~B) Title: Basic Child Care/Habilitation Aide Training Program.~~

~~C) Identification number of the program.~~

~~3) Successful completion of the course does not imply "certification" of the child care/habilitation aide by the State. It only indicates that the person has successfully completed the Basic Child Care/Habilitation Aide Training Program and can be employed by licensed long term care facilities as a child care/habilitation aide.~~

~~4) Application for approval of programs—~~

~~Requests for approval of programs and other related correspondence are to be submitted to:~~

~~Illinois Department of Public Health  
Office of Health Regulation  
525 West Jefferson Street  
Springfield, Illinois 62761~~

~~It will not be necessary for any course, currently approved under criteria in effect at the time these revised criteria for Basic~~

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## Section 390.680 (continued)

~~Child Care/Habilitation Aide Training programs become effective, to make any changes in program content until such time as a review by the Department indicates the revisions to the program content are needed to keep the program in compliance with the rules. Any program determined to need changes will be notified, in writing, by the Department. Unless and until such written notification is received, there is no need to contact the Department concerning continued approval of a program.~~

~~1) Recognized Training Program—~~

~~1) Any licensed long term care facility may teach a recognized training program for prospective child care/habilitation aides which can be individualized for each employee and can be taught by any person or persons in the facility.~~

~~2) Any person who attends a recognized training program must successfully pass the Department's proficiency examination before being permitted to function as a certified child care/habilitation aide.~~

~~3) Recognized training programs shall be registered with the Department by letter, and must state that, as a minimum, the course content in 390.680(d) will be taught wholly or in part, give the name of the instructor and give notice that the program is operational.~~

~~4) Recognized training programs must, as a minimum, provide all or part of the course content of an approved Department training program such as in 390.680(d).~~

~~j) Proficiency Examination for Child Care/Habilitation Aides—~~

~~1) Any person employed as a child care/habilitation aide may elect and request to take a proficiency examination in lieu of a course of training as required under section 3-206(a)(5) of the Act.~~

~~2) The person must meet the requirements of Section 3-206(a) (1)(4) of the Act and be or will be employed as a child care/habilitation aide.~~

~~3) A completed application must be presented at the time of the examination on forms provided by the Department.~~



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## Section 390.680 (continued)

- ~~4) The proficiency examination will be offered monthly in each of the Department's Regions. A list of test sites, dates and times can be obtained by calling the Department at (217) 795-5133.~~
- ~~5) The examination will consist of written questions from the approved curriculum as shown in 390.690(d). An examinee must score 70% or more on each section in order to successfully pass the section. Notice of Pass or Fail will be sent to the examinee and the employer. Only those sections previously failed must be retaken during subsequent attempts to pass the entire proficiency examination.~~
- ~~6) An examinee who fails the proficiency examination three (3) times within the first forty five (45) days of employment must enroll in and complete an approved course of instruction in order to become a qualified child care/habilitation aide in accordance with Section 2-206 of the Act.~~

(Source: Section repealed, new Section adopted at 12 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.690 Disaster Preparedness

- a) Each facility shall have policies covering disaster preparedness including a written plan for staff and residents to follow in case of fire, explosion, severe weather or other hazardous circumstances or emergencies. The plan shall be rehearsed at least twice a year for each shift. The plan shall include, but is not limited to, the following: ~~(B)(6)~~
- 1) All personnel employed on the premises shall be properly instructed in the use of fire extinguishers. ~~(B)(6)~~
- 2) A written plan of evacuation posted, and made familiar to all personnel employed on the premises. ~~(6)~~
- b) Fire and disaster drills shall be held at least quarterly, for each shift of facility personnel and under varied conditions, in order to: ~~(6)~~
- 1) Ensure that all personnel on all shifts are trained to perform assigned tasks;

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## Section 390.690(b) (continued)

- 2) Ensure that all personnel on all shifts are familiar with the use of the fire-fighting equipment in the facility;
- 3) Evaluate the effectiveness of disaster plans and procedures;
- 4) Fire and disaster drills shall include simulation of evacuation of residents to safe areas during at least one drill each year on each shift.
- 5) There shall be special provisions for the evacuation of the physically handicapped, including deaf ~~and/or~~ and blind, such as fire chutes and mattress loops with poles.
- 6) Where the welfare of the residents precludes an actual evacuation of an entire building, there must be drills involving the evacuation of successive portions of the building under such conditions as to assure the capability of evacuating the entire building with the personnel usually available, should the need arise.
- 7) There shall be a written evaluation submitted to the facility administrator which shall be maintained for three years.
- c) A written plan shall be developed for temporarily relocating the residents for any emergency requiring relocation and any time the temperature in residents' bedrooms falls below ~~fifty-five (55)~~ degrees Fahrenheit for ~~twelve (12)~~ hours or more. ~~(6)~~
- d) 1) Upon the occurrence of any emergency or disaster requiring hospital service, police, fire department or coroner, the facility administrator or their designee must provide a preliminary report to the Department utilizing either the nursing home hotline or by contacting directly the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:
- A) Name and location of facility;
- B) type of emergency;
- C) number of injuries or deaths to residents;
- D) number of beds not usable due to the event;

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Section 390.690(d)(1) (continued)

- E) estimate of the extent of damages to the facility;
- F) type of assistance needed, if any;
- G) other state or local agencies notified about the problem.
- 2) If the emergency will not require direct Departmental assistance, the facility shall provide the preliminary report within 24 hours of the incident. Additionally, the Department shall receive a full written account within seven ~~(7)~~ days of the incident which includes the information specified in subsections (d)(1)(A) through (d)(1)(G) of this Section -above-- and a statement of action taken by the facility after the preliminary report. ~~(G)~~
- e) Each facility shall establish and implement policies and procedures in a written plan to provide for the health, safety, welfare and comfort of all residents whenever the temperature and relative humidity inside the residents living, dining, activities or sleeping areas of the facility are equal to or exceed the upper or lower limit lines (the solid lines) of the chart, "Zones of Physiological Preception," displayed in Table F: "Disaster Preparedness Parameters -- Relative Humidity and Temperature." (A, B, ~~G~~)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.700 Serious Incidents and Accidents

- a) The facility shall notify the Department of any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department. ~~(G)~~

- 1) Notification shall be made by a phone call to the Regional Office within ~~twenty-four~~ ~~(24)~~ hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number. ~~(G)~~
- 2) A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven ~~(7)~~ days of the occurrence. ~~(G)~~

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Section 390.700 (continued)

- b) A descriptive summary of each incident or accident shall be recorded in the progress notes or nurse's notes for each resident involved. ~~(G)~~
- c) The facility shall maintain a file of all written reports of serious incidents or accidents involving residents. ~~(G)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: PERSONNEL

Section 390.810 General

- a) Sufficient staff in numbers and qualifications shall be on duty all hours of each day to provide services that meet the total needs of the residents. (B)
- b) The number and categories of personnel to be provided shall be based on the following:
- 1) Number of residents.
  - 2) Amount and kind of nursing care, program services, supervision, and personal care needed to meet the particular needs of the residents at all times.
  - 3) Size, physical condition, and the layout of the building including proximity of service areas to the resident's rooms.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.820 Categories of Personnel

Categories of personnel to be provided shall include but are not limited to the following:

- a) an administrator as set forth in Subpart B. (B)
- b) nursing personnel as set forth in Subpart E. (B, ~~G~~)
- c) a Resident Services Director who is a Qualified Mental Retardation Professional as defined in Section 390.330, who is assigned responsibility for the coordination and monitoring of each resident's



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overall plan of care (Individual Habilitation Plan). This person shall have at least one ~~(1)~~ year experience working with developmentally disabled residents. The administrator or an individual on the professional staff of the facility may fill this assignment to assure that residents' plans of care (Individual Habilitation Plan) are individualized, written in terms of short and long range goals, understandable and utilized; their needs are met through appropriate staff interventions and community resources; and residents are involved, whenever possible, in the preparation of their plan of care (Individual Habilitation Plan). This person shall have at least one ~~(1)~~ year experience working with developmentally disabled residents. (B-~~6~~)

d) recreational activity personnel as set forth in Section 390.1100(c)(1) (B-~~6~~)

e) dietary personnel as set forth in Sections 390.1810 through Section 390.1820. (B-~~6~~)

f) a staff member suited by training ~~and/or~~ and experience to be responsible for social services and for the integration of social services with other elements of the plan of care (Individual Habilitation Plan). (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.830 Consultation Services

a) The facility shall have all arrangements for each consultant's services in a written agreement setting forth the services to be provided. These agreements shall be updated annually. ~~(6)~~

b) The facility shall designate a staff member to provide social services to residents. If the staff member designated to provide social services is not a qualified social worker, the facility shall have an effective arrangement with a qualified social worker to provide social service consultation. ~~(6)~~

c) A qualified social worker is one who meets the definition in Section 390.330. ~~is~~

~~1) is licensed by the State of Illinois (registered or certified by the Illinois Department of Registration and Education); and~~

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## Section 390.830(c) (continued)

~~2) is a graduate of a school of social work which has been approved by the Council on Social Work Education. (Some schools are approved for Bachelor's Degree programs and others for Master's Degree); and~~

~~3) has one (1) year of social work experience in a health care setting.~~

d) The facility shall designate a staff member to be the director of the activities program. If a facility does not have a Registered Occupational Therapist, or a Therapeutic Recreation Specialist, or a Certified Social Worker employed as an activity director, it shall have a written agreement made with a person from one of those disciplines, to provide adequate and sufficient consultation to the Activity Director in order to assure the appropriateness of programming to meet the assessed needs of the residents. ~~(6)~~

e) The facility shall designate a staff member skilled in record maintenance and preservation to be responsible for maintaining and preserving records. If the designated person is not a qualified Medical Records Practitioner, then that person shall receive adequate consultation from a person so qualified.

f) The facility shall make arrangements for a consultant pharmacist as set forth in Section 390.1410.

g) The facility shall make arrangements for a medical advisory committee as set forth in Section 390.1020(b).

h) The facility shall make arrangements for an advisory dentist as set forth in Section 390.1050(a).

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

## Section 390.1010 Service Programs

a) The facility shall provide, either directly or through arrangements with an outside resource, as needed by the individual resident, all services necessary to maintain and promote good physical health and development. These services shall consist of, at a minimum, the following: (B-~~6~~)

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## Section 390.1010(a) (continued)

- 1) Medical Services as described in Section 390.1020. (B-~~7~~-~~6~~-)
- 2) Physician Services as described ~~as~~ in Section 390.1030. (B-~~7~~-~~6~~-)
- 3) Nursing Services as described in Section 390.1040. (B-~~7~~-~~6~~-)
- 4) Dental Services as described in Section 390.1050. (B-~~7~~-~~6~~-)
- 5) Physical and Occupational Therapy Services as described in Section 390.1060. (B-~~7~~-~~6~~-)
- 6) Psychological Services as described in Section 390.1070. (B-~~7~~-~~6~~-)
- 7) Social Services as described in Section 390.1080. (B-~~7~~-~~6~~-)
- 8) Speech Pathology and Audiology Services as described in Section 390.1090. (B-~~7~~-~~6~~-)
- 9) Recreational and Activity Services as described in Section 390.1100. (B-~~7~~-~~6~~-)
- 10) Educational Services as described in Section 390.1110. (B-~~7~~-~~6~~-)
- 11) Work Activity and Prevocational Training Services as described in Section 390.1120. (B-~~7~~-~~6~~-)

b) These services shall be expressed in a written individual habilitation plan. The individual habilitation plan is a total program plan of care for each individual resident that is developed on the basis of all assessment results. ~~(6)~~

c) Each resident shall have an individual habilitation plan developed within ~~fourteen~~ ~~(14)~~ days of admission. This plan shall be reviewed and updated approximately six ~~(6)~~ weeks following admission and every six ~~(6)~~ months thereafter or more frequently as necessary, to assure continuing appropriateness of goals, consistency of management methods with goals and objectives, and the achievement of progress towards goals.

d) The individual habilitation plan shall be developed by an appropriately constituted interdisciplinary team and state specific objectives to reach identified goals.

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## Section 390.1010 (continued)

e) Each goal and objective shall:

- 1) reflect the residents needs as identified by assessment data;
  - 2) be stated in terms of a single outcome;
  - 3) be expressed in terms that provide measurable indices of progress;
  - 4) be sequenced within a developmental progression, when applicable;
  - 5) be assigned priorities;
  - 6) project a date for initiation of service;
  - 7) have a targeted date of attainment;
  - 8) specify activities for achievement of the objectives;
  - 9) be written in terms that are understandable to all concerned;
  - 10) identify the individual responsible for delivering the services.
- f) The residents' response to programs designed to achieve the objectives shall be documented and available to staff.
- g) Problems ~~and/or~~ or changes that call for review of the individual habilitation plan by the interdisciplinary team shall be documented.
- (Source: Amended at 13 Ill. Reg.       , effective       )

## Section 390.1020 Medical Services

a) General

- 1) The facility shall have a written program of medical services approved in writing by the medical advisory committee that reflects the philosophy of care provided, the policies relating to this, and the procedures for implementation of the services. The program shall include the entire complex of services provided by the facility and the arrangements to effect transfer to other facilities as promptly as needed. The written program of medical services shall be followed in the operation of the facility. (B-~~7~~-~~6~~-)



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## Section 390.1020(a) (continued)

2) There shall be a medical advisory committee composed of at least a physician, administrator and the director of nursing, which shall be responsible for advising the administrator and the licensee on the overall medical management of the residents and the staff in the facility. If the facility employs a house physician, he may be a member of this committee. The written program of medical services shall also include the structure and function of the medical advisory committee. (B-~~7-6~~)

## b) Emergencies

1) The medical advisory committee shall develop policies and procedures to be followed during the various medical emergencies that may occur from time to time in long-term care facilities. These medical emergencies include, but are not limited to, such things as foreign body aspiration, poisoning, acute trauma (fractures, burns, and lacerations, etc.), cardiac arrest, acute coronary, acute cardiac failure, asthmatic ~~and/or~~ or allergic reactions, acute convulsion, shock, diabetic coma, insulin shock, and acute respiratory distress. (B-~~7-6~~)

2) The facility shall maintain in a suitable location the equipment necessary to be used during these emergencies. This equipment shall include, but is not limited to the following: a portable oxygen kit, including a face mask ~~and/or~~ or cannula; an airway; and tongue blades. (B-~~7-6~~)

3) There shall be at least one staff person on duty at all times who has been properly trained to handle the medical emergencies in this subsection (b). (B-~~7-6~~)

## c) Communicable Disease Policies

1) The administrator shall assume the responsibility for meeting ~~all~~ the Department's rules ~~for the~~ entitled "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) ~~Illinois Department of Public Health~~, so that there is a minimum danger of transmission of contagious, infectious, or communicable diseases. (B)

2) As part of this responsibility, the administrator shall establish an Infection Control Committee, composed of members of the medical and nursing staffs, administration, and the dietetic, pharmacy, housekeeping, maintenance and other services. The committee shall establish policies and procedures

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## Section 390.1020(c)(2) (continued)

for investigating, controlling, and preventing infections in the facility, and for monitoring staff performance to ensure that the policies and procedures are executed. (C-~~6~~)

3) No resident with a communicable, contagious, or infectious disease shall be admitted knowingly. An exception shall be a resident whose only such infectious condition is one or more chronic decubital ulcers, from which laboratory tests have proven the presence of a pathogenic organism. Such a resident may be admitted when the facility is capable of implementing appropriate treatment and isolation techniques, to avoid secondary spread of infection. Additional exceptions may be requested on an individual case basis. Permission to admit or keep a resident with any other communicable, contagious, or infectious disease shall require the written approval of the Department. Such approval will be dependent upon the nature of the infectious condition or disease and the capability of the facility to provide proper care to the resident and to adequately safeguard the staff and other residents of the facility from secondary spread of infection. Any resident when suspected or diagnosed as having any communicable, contagious, or infectious disease shall be placed in the appropriate type of isolation as required by the Department's rules entitled ~~for~~ "the Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) ~~Illinois Department of Public Health~~ and "Isolation Techniques for Use in Hospitals", U.S. Public Health Service, for the period of time required for each specific disease or until removed from the facility. (A, B-~~7-6~~)

4) All illnesses required to be reported under subsection (c)(1) of this Section ~~above~~, shall be reported immediately to the local health department ~~and/or~~ and to this Department. The administrator shall furnish all pertinent information relating to such occurrences. (B-~~7-6~~)

5) Procedures and aseptic isolation techniques shall be established in writing and followed by all personnel. (B-~~7-6~~)

(Source: Amended at 13 Ill. Reg.         , effective         )

## Section 390.1030 Physician Services

a) 1) The services of a physician licensed to practice medicine in

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## Section 390.1030(a)(1) (continued)

Illinois shall be available to every resident in the facility. Residents in facilities operated under bona fide Christian Science auspices may be exempt from this requirement. (A, B)

- 2) Physician services are to include a complete physical examination at least annually and formal arrangements to provide for medical and behavior emergencies on a ~~twenty-four~~ (24) hour seven ~~47~~ day week basis. (B)
- b) The resident shall be permitted his choice of a physician. If the resident is a minor or under guardianship, the appropriate person shall have this privilege.
- c) The resident shall be seen by a physician as often as necessary to assure adequate medical care. (Medicare/Medicaid requires certification visits.) (A, B-~~6~~)
- d) Physicians shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiating, monitoring, and following-up of individualized habilitation programs for treatment. ~~(6)~~
- e)
  - 1) All physician orders, plans of treatment, Medicare/Medicaid Certification and recertification statements and similar documents must have the original written signature of the physician. ~~(6)~~
  - 2) The use of a physician's rubber stamp signature with or without initials is not acceptable. ~~(6)~~
- f) Each resident admitted shall have a complete physical examination, including stool culture, within two ~~(2)~~ weeks prior to admission. There shall be another physical examination (which need not include a stool culture) conducted by the physician who will be attending the resident in the facility within ~~seventy-two~~ (72) hours after admission to the facility unless the preadmission examination has been conducted by the same physician. In any case, the facility shall have the results of a stool culture before a resident is admitted. This examination shall include an evaluation of the resident's condition, including height and weight, and recommendations for ~~his/her~~ care of the resident including personal care needs and permission for participation in the activity and developmental program. This examination shall also include documentation of the presence or the absence of tuberculosis

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## Section 390.1030(f) (continued)

- infection by tuberculin skin test in accordance with Section 390.1035. The report shall also include documentation of the presence or absence of incipient or manifest decubitus ulcers (commonly known as bed sores) with grade, size and location specified, and orders for treatment if present. (A photograph of incipient or manifest decubitus ulcers is recommended on admission.) The report shall also include orders from the physician regarding weighing of the resident, and the frequency of such weighing, if ordered. (See Section 390.1620(a)) (B-~~6~~)
- g) The admission information for a resident shall include summary of present medical findings, medical history, mental and physical functioning capacity, diagnosis and prognosis when available and; it shall also include orders for medications, treatments, restorative (re)habilitation services, diet, specific procedures recorded for the health and safety of the resident, activities and plans for continuing care and discharge. If this information is not received with the resident at the time of admission, it must be received within ~~forty-eight~~ (48) hours.
  - h) All admissions to or continued care in the facility shall be upon the recommendation of a physician. ~~(6)~~
  - i) The provisions of subsections (f), (g) and (h) of this Section ~~above~~ will not apply in the use of emergency admissions. In such a case, the physician shall meet the criteria in these standards within ~~seventy-two~~ (72) hours.
  - j)
    - 1) The facility shall immediately notify the physician of any significant accident, injury, or unusual change in a resident's condition that threatens the health, safety or welfare of a resident, including, but not limited to, the presence of incipient or manifest decubitus ulcers or a weight loss or gain of five ~~(5)~~ percent or more within a period of ~~thirty~~ (30) days. (B-~~6~~)
    - 2) The facility shall obtain and record the physician's plan of care for the care or treatment of such accident, injury or change in condition at the time of notification.
  - k) At the time of an accident, immediate first aid treatment shall be provided by personnel trained in medically approved first aid procedures. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



Section 390.1035 Tuberculin Skin Test Procedures

Tuberculin skin test for employees and residents shall be conducted in accordance with the requirements in this Section.

- a) Where there is documentation for an employee or resident of previous significant skin test reaction and previous treatment for tuberculosis, no skin test is required. The facility shall retain such documentation of testing and treatment in the employee's personnel record or the resident's medical record.

- b) The tuberculin skin test shall consist of five tuberculin units of purified protein derivative administered intradermally using the Mantoux method.

- c) A significant reaction shall be considered to exist when either of the following conditions exist:

- 1) There is an area of induration of ten mm or more in diameter.  
 2) There is an area of induration of five mm or more in diameter and the attending physician or local health authority suspect tuberculosis on the basis of disease or exposure.

- d) If the first test is nonsignificant, a second test shall be given at least one week, but no more than three weeks, after the first test.

- e) If the first or second test reaction is significant, or if active tuberculosis is suspected at any time, the attending physician or local health authority shall order any further examinations and treatment which is considered necessary, such as x-rays, cultures, or sputum smears.

(Source: Amended at 13 Ill Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.1040 Nursing Services

- a) The facility shall have a written program of Nursing Services, providing for a planned medical program, encompassing nursing treatments, rehabilitation and habilitation nursing, skilled observations, and ongoing evaluation and coordination of the resident's individual habilitation plan.
- b) There shall be a sufficient number of nursing ~~and/or~~ and auxiliary personnel on duty ~~twenty-four~~ 24 hours each day to provide adequate and properly supervised nursing services to meet the nursing

needs of the residents. There shall be at least one ~~(1)~~ registered nurse seven ~~(7)~~ days a week on the day shift. There shall be at least one ~~(1)~~ registered nurse or licensed practical nurse on duty at all times and on each floor housing residents. Nursing staff personnel shall include registered professional nurses, licensed practical nurses, and auxiliary personnel as defined in Section 390.330 of this Part. (A, B)

- c) Director of Nursing Service. There shall be a director of nursing who shall be a registered nurse. (B)

- d) The director of nursing shall have knowledge and training in nursing service administration, restorative ~~and/or~~ and habilitative nursing. (B ~~and/or~~)

- e) The director of nursing shall be a full-time employee who is on duty a minimum of ~~thirty-six~~ 36 hours, four ~~(4)~~ days per week. At least ~~fifty percent~~ 50% of this person's hours shall be regularly scheduled some time between 7 ~~00~~ A.M. and 7 ~~00~~ P.M. (B ~~and/or~~)

- 1) A facility of less than ~~fifty~~ 50 bed capacity may, with written approval from the Department, have two registered nurses share the duties of this position if it is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three ~~(3)~~ weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full-time; and information about the number and availability of registered nurses in the area. The Department will grant approval only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of registered nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full-time. If two persons are to share the position, one shall be designated the Director of Nursing Services and the other shall be designated the Assistant Director of Nursing Services. Both of these persons shall be R.N.'s.

- 2) In facilities with a capacity of less than ~~fifty~~ 50 beds, this person (or these persons), may also provide direct patient care, and ~~this person's~~ this person's time may be included

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## Section 390.1040(e)(2) (continued)

in meeting the staff/resident ratio requirements.

- f) In facilities of ~~one hundred (100)~~ occupied beds or more, there shall be an assistant director of nursing who is a registered nurse licensed to practice in Illinois. The assistant must meet the qualifications specified in subsection (d) of this Section ~~above~~.
- g) The assistant director of nursing shall be a full-time employee who is on duty a minimum of ~~thirty-six (36)~~ hours, four ~~(4)~~ days per week. The assistant need not work on the day shift but may be assigned to any shift. (B)
- h) The assistant director of nursing shall assist the director in carrying out her responsibilities. (B)
- i) The responsibilities of the director of nursing shall include, at a minimum, the following: (B)
- 1) Assigning and directing the activities of nursing and auxiliary service personnel.
  - 2) Planning an up-to-date resident care plan for each resident in cooperation with the interdisciplinary team based on individual needs and goals to be accomplished, physician's orders, and personal care and nursing needs. Services such as nursing, developmental, activities, dietary, and such other modalities as are ordered by the physician, shall be reflected in the preparation of the resident care plan. The plan shall be in writing and shall be reviewed and modified in keeping with the care needed as indicated by the resident's condition. The plan shall be reviewed every three ~~(3)~~ months.
  - 3) Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.
  - 4) Participating in planning and budgeting for nursing services including purchasing of necessary equipment and supplies.
  - 5) Developing ~~and for~~ and maintaining nursing service objectives, standards of nursing practice, written policies and procedures, and written job descriptions for each level of nursing and auxiliary personnel.

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## Section 390.1040(i) (continued)

- 6) Coordinating health services and nursing services with other resident care services such as medical, pharmaceutical, dietary activities, and any other restorative and rehabilitative services offered.
- 7) Planning of inservice education, embracing orientation, skill training, and ongoing education for all nursing personnel covering all aspects of resident care and programming. The educational program shall include training and practice in activities and restorative and rehabilitative nursing techniques through out-of-facility or in-facility training programs. The director of nursing may conduct these programs personally or see to it that they are carried out.
- 8) Participating in the development and implementation of resident care policies and bringing resident care problems, requiring changes in policy, to the attention of the facility's policy development group. (See Section 390.610(a))
- 9) Participating in the screening of prospective residents and their placement in terms of services they need and nursing competencies available.
- j) Nursing, Personal and (Re)habilitative Care. Nursing care including personal and (re)habilitative care measures shall be practiced on a ~~twenty-four (24)~~ hour, seven ~~(7)~~ day a week basis in the care of residents. Those procedures requiring medical approval shall be ordered by the attending physician. (B, ~~C~~)
- k) Nursing care shall include at a minimum the following:
  - 1) All medications including oral, rectal, hypodermic, and intra-muscular shall be properly administered. (A, B)
  - 2) All treatment such as: enemas, irrigations, catheterizations, applications of dressing or bandages, supervision of special diets, restorative and rehabilitative measures in Section 390.1620(a)(11) and other treatments involving a like level of skill, shall be properly administered. (A, B, ~~C~~)
  - 3) All objective observations of changes in a resident's condition, including mental and emotional changes, as a means for analyzing and determining care required ~~and for~~ and the need for further medical, nursing or psychosocial evaluation and treatment shall be provided. (B, ~~C~~)



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## Section 390.1040 (continued)

- 1) Each resident shall have his temperature taken daily unless otherwise ordered by the physician. If the temperature varies two degrees from the normal for the resident, the physician shall be notified. (B)
- m) Skin care shall be given to prevent pressure sores, heat rashes or other skin breakdown. Each resident with pressure sores, heat rashes or other skin breakdown shall be checked at least every two ~~(2)~~ hours and given care as needed including clothing and diaper change. Skin care shall be given with each diaper change. (B)
- n) Skin care should be provided as follows: (B)
  - 1) Bathing, clean linens, diapers, ~~and/or~~ and clothing each time the bed or clothing is soiled. Rubber, plastic, or other types of linen protectors (newspapers not acceptable) shall be properly cleaned and completely covered to prevent direct contact with the resident. If rubber, plastic, or other type of waterproof materials are used for protective pants, they shall not come in direct contact with the resident. Special attention shall be given to the skin to prevent irritations, skin rashes, or ulcerations. (B-~~6~~)
  - 2) Assistance in being up and out of bed as much as the condition of the resident permits. The resident may be denied this assistance only upon the written order of his physician. If the resident cannot move himself, he shall have his position changed every two ~~(2)~~ hours or more as necessary.
- o) All necessary precautions shall be taken to assure the safety of residents at all times, such as: nonslip wax on floors, side rails on beds, safe equipment and assistive devices properly maintained, and proper use of safety devices. See Section 390.2020(a)(2) (A, B-~~6~~)
- p) Each resident shall perform all of the following personal care functions independently if possible. If unable to do so, assistance shall be provided by staff. (B)
  - 1) Each resident shall bathe as often as necessary, but at least daily.
  - 2) Each resident shall change clothing as often as necessary, but at least daily.
  - 3) Each resident shall shampoo as often as necessary, but at least

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## Section 390.1040(p)(3) (continued)

- weekly.
- 4) Each resident shall clean and trim fingernails and toenails as often as necessary but at least weekly.
- 5) Each resident shall perform oral hygiene as often as necessary, but at least daily.
- 6) Each female resident shall be provided with commercial sanitary napkins during menses. Frequent cleansing of the perineal area shall be performed.
- q) Haircuts shall be provided as needed. Socially acceptable hair styles and the wishes of the resident must be taken into consideration. (B)
- r) Each resident shall dress in street clothing and be out of bed at all times other than regularly scheduled sleeping or napping hours, unless contraindicated. (B)
- s) Adaptive equipment shall be provided to ensure the safety of the resident (such as seat belts, helmets, mitts, and special padding).
- t) Each resident shall be weighed upon admission and at least once a week thereafter unless otherwise ordered in writing by the physician. Any significant change shall be reported to the attending physician and dietitian. (B)
- u) Each resident shall be encouraged ~~and/or~~ and assisted in maintaining good body alignment while lying in bed, sitting or standing, through proper positioning and turning. (B-~~6~~)
- v) Each resident shall be assisted in maintaining maximum joint range of motion, ~~and/or~~ and active range of motion through proper exercises. (B-~~6~~)
- w) Each resident shall be trained and encouraged to adopt food habits as near as possible to normal. Residents shall receive solids, unless otherwise ordered in writing by the physician. Each resident shall eat in an as upright position as possible and out of bed unless contraindicated. (B)
- x) Each incontinent resident shall be assisted in regaining bowel and bladder patterns through proper bowel and bladder (re)training. The

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## Section 390.1040(x) (continued)

- use of indwelling catheters shall be discouraged. (B-~~C~~)
- y) All residents shall be encouraged and, when necessary, taught to function at their maximum level in all activities of daily living for as long as and to the degree that they are able. (B)
- z) All residents shall be assisted and encouraged with daily ambulation unless otherwise ordered by the physician. (B-~~C~~)
- aa) All residents shall be taught and assisted with safe transfer activities in an effort to help them retain, regain, or gain their maximum level of independence. (B-~~C~~)
- bb) Staffing. Staffing shall be based on the needs of the residents, and shall be determined by figuring the number of hours of personal and rehabilitative time each resident needs on each shift of the day. This determination shall be made separately for both licensed nursing personnel and other personal/habilitative care personnel. Habilitative personnel may include, in addition to licensed nurses, such persons as aides, orderlies, therapists, teachers, and any other person providing direct habilitative care to residents. (A, B)

- 1) In a facility whose residents participate in regularly scheduled therapeutic programs outside the facility, such as school or sheltered workshops, the minimum hours of care that must be provided are reduced proportionately.
- 2) It is the responsibility of each facility to determine the staffing needed to meet the needs of its residents. It is the responsibility of the Department to verify that the staffing provided by the facility is sufficient to meet the needs of the residents.

- 3) The following figures apply to hours of care actually provided and not to hours of care scheduled to be provided.

- 4) Each resident shall be provided with a minimum of four ~~(4)~~ hours of personal/habilitative care each day. The director of nursing shall not be included in hours of personal/habilitative care provided.

- 5) The facility shall schedule personnel in such a manner that the needs of all residents are met. At least 30% of the minimum required hours shall be on the day shift, at least 30% of the minimum required hours shall be on the evening shift, and at

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## Section 390.1040(bb)(5) (continued)

least ten percent ~~10%~~ of the minimum required hours shall be on the night shift. The total percentage must add up to 100% each day. At least 12.5% of the hours of care provided on each shift must be by licensed nursing personnel. Licensed nursing personnel may be used to replace other personal/rehabilitative care staff if the needs of the residents are met by such staffing.

- 6) A) When computing the number of staff hours needed per shift, any figure less than .25 will be dropped from the computation and any figure of .75 or higher will go to the next higher number. Figures in between .25 and .75 will require at least the amount of coverage indicated: i.e. - .25 will require ~~two~~ two hours of coverage; .3 will require ~~2 1/2~~ two and one half hours of coverage; .5 will require ~~4~~ four hours of coverage; .6 will require ~~5~~ five hours of coverage; .74 will require ~~6~~ six hours of coverage; etc. .75 or higher will require ~~8~~ eight hours of coverage.
- B) These hours may be provided by: a part-time person working those hours only on that shift each day; a full-time person working a shift that spans two regular shifts - i.e. from 12 noon to 8 P.M.; or by an additional full-time person on the shift. However, keep in mind that these figures are minimal staffing requirements, and it is recommended that a full-time person be provided.

- cc) Additional requirements. In addition to the above requirements, the following also apply:

- 1) There shall be a licensed nurse designated as being in charge of nursing services on all shifts when neither the director of nursing or assistant director of nursing are on duty. If registered nurses and licensed practical nurses are on duty on the same shift, this person shall be a registered nurse. This person may be a charge nurse on one of the nursing units. The director of nursing or assistant director of nursing will, of course, be in charge of nursing services during those shifts when they are on duty. (A, B)

- 2) There shall be at least one person awake, dressed and on duty at all times in each separate nursing unit. (A, B)



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## Section 390.1040(cc) (continued)

- 3) There shall be at least one registered nurse on duty seven ~~(7)~~ days per week on the day shift. (A, B)
- 4) There shall be at least one registered nurse or licensed practical nurse on duty at all times. (A, B)
- 5) There shall be at least one registered nurse or licensed practical nurse on duty on each floor housing residents. (A, B)
- 6) The need for licensed nurses on each nursing unit will be determined on an individual case basis, dependent upon the individual situation. If such additional staffing is required, the surveyor will inform the facility in writing of the kind and amount of additional staff time required, and the reason why it is needed.
- 7) The need for an additional licensed nurse to serve as a "house supervisor" will be determined on an individual case basis. If the surveyor determines that there is a need for a registered nurse on certain shifts whose sole duties will consist of supervising the nursing services of the facility, the surveyor shall notify the facility in writing when and why such a person is needed. This person shall not perform the duties of a charge nurse while serving as the "house supervisor".

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.1050 Dental Care Services

- a) Every facility shall have an advisory dentist. The advisory dentist shall have a contractual relationship to the facility, setting forth the preventive and therapeutic oral health services to be provided to residents. (B-~~6~~)
- b) There shall be education and training in the maintenance of oral health which includes a dental hygiene program that includes imparting information regarding nutrition and diet control measures to residents and staff; instruction of residents and staff in living units in proper oral hygiene methods; and instruction of parents or surrogates in the maintenance of proper oral hygiene, where appropriate (as in the case of residents leaving the facility). (B-~~6~~)
- c) There shall be comprehensive diagnostic services for all residents

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## Section 390.1050(c) (continued)

- (diagnostic for residents from birth to two ~~(2)~~ years of age only if medically indicated) which include a complete extra and intra oral examination utilizing all diagnostic aides necessary to properly evaluate the resident's oral condition, within a period of one ~~(1)~~ month following admission unless examined within six ~~(6)~~ months before admission and results received by the facility with the results of said examination entered in the resident's dental record as a separate part of the resident's permanent medical chart. (B-~~6~~)
- d) There shall be comprehensive treatment services for all residents which include, but are not limited to, the following: (B-~~6~~)
    - 1) Provision for dental treatment
    - 2) Provision for emergency treatment on a ~~twenty-four (24)~~ hour, seven ~~(7)~~ days a week basis, by a qualified dentist.
    - 3) A recall system that will assure that each resident is reexamined at specified intervals in accordance with their needs, but at least annually. Needed dental treatment shall be provided.
  - e) The direct care staff shall receive in-service education annually. This will be provided by the dentist or he may utilize a dental hygienist. (B-~~6~~)
    - 1) Direct care staff shall be educated in ultrasonic ~~and/or~~ and manual denture and partial denture cleaning techniques.
    - 2) Direct care staff shall be educated in proper brushing and oral health care for residents who are unable to care for their own health.
    - 3) Direct care staff shall be educated in examining the mouth in order to recognize abnormal conditions for necessary referral.
    - 4) Direct care staff shall be educated regarding nutrition and diet control measures and the effect on dental health.
    - 5) Supplemental dental training films shall be included with any other health training films seen on a rotating basis.
  - f) The facility's dental program shall provide for proper daily personal dental hygiene care which includes, but is not limited to, the

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## Section 390.1050(f) (continued)

following: (B-~~6~~-)

- 1) Assistance in cleaning mouth with electric or hand brush if resident is unable to do so.
- 2) Proper cleaning of dentures ~~and/or~~ and partials.
- g) The dental program shall provide for inservice education to residents and staff under direction of dental staff including, but not limited to, the following: (B-~~6~~-)
  - 1) Information regarding nutrition and diet control measures which are dental health oriented.
  - 2) Instruction in proper oral hygiene methods.

- 3) Instruction concerning the importance of maintenance of proper oral hygiene and where appropriate including family members or surrogates (as in the case of residents leaving the long-term care facility).

- h) Each facility shall have a denture and dental prosthesis marking system which takes into account the identification marking system contained in Ill. Rev. Stat., ~~1983~~ 1987, Ch. 111, par. ~~2202~~ 2349, "Manufacture of dentures and dental prostheses" ~~identification marks~~. Policies and procedures shall be written and contained in the facilities Policies and Procedure Manual. It shall include, at a minimum, provisions for: (B-~~6~~-)
  - 1) Marking individual dentures or dental prosthesis, if not marked prior to admission to the facility, within ten ~~40~~ days of admittance; and
  - 2) Individually marked denture cups for denture storage at night.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1060 Physical and Occupational Therapy Services

- a) The facility shall provide physical therapy and occupational therapy directly or by arrangements with an outside resource for those residents who need such services. The treatment training programs should be designed to preserve and improve abilities for independent function, such as range of motion, strength, tolerance, coordination,

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## Section 390.1060(a) (continued)

- and activities of daily living; and to prevent, insofar as possible, irreducible or progressive disabilities, through means such as the use of orthotic and prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptation, and sensory stimulation. (B)
- b) Each resident shall be evaluated within one ~~41~~ month of admission regarding the need for such services and the results of such evaluation shall be entered in the medical record.
- c) The therapist shall function closely with the resident's primary physician and with other medical specialists and treatment training progress shall be recorded regularly, evaluated periodically, and used as the basis for continuation or change of the resident's program.
- d) Physical and occupational therapy services shall be provided as needed by the residents through personal contact of the therapists directly with the residents and indirectly with persons involved with the residents' treatment programs. (B)
- e) Evaluation results, treatment objectives, plans, procedures, and continuing observations of treatment progress shall be recorded accurately, summarized, communicated, and included in the resident's record.
- f) Physical therapists and occupational therapists shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents for the purpose of initiation, monitoring, and follow-up of habilitation programs.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1070 Psychological Services

- a) The facility shall provide psychological services either directly or indirectly by arrangements with an outside resource. These services should be provided to the residents as needed both directly through personal contact with the psychologist and indirectly through the psychologist's consultation with other persons involved in the resident's treatment program. (B-~~6~~-)
- b) Each resident shall be evaluated within ~~thirty~~ 30 days of admission regarding the need for such services and results of such



## Section 390.1070(b) (continued)

evaluation shall be entered in the medical record.

- c) Psychologists shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents for the purpose of initiation, monitoring, and follow-up of individual habilitation programs. ~~(C)~~
- d) The psychologist shall report and disseminate the evaluation results in such a manner that the information, useful to the staff working with the resident, will be promptly provided and that accepted standards of confidentiality will be maintained. ~~(C)~~
- e) The facility shall employ sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the various psychological service activities in accordance with the needs of the following functions:

- 1) Psychological services to residents including evaluation, consultation, therapy, and program development. ~~(C)~~
- 2) Administration and supervision of psychological services. ~~(C)~~
- 3) Staff training. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1080 Social Services

- a) The facility shall provide Social services, needed by the resident. These services shall be provided to the residents by or with consultation of a qualified social worker through the use of social work methods directed toward: (B, ~~C~~)

- 1) Maximizing the social functioning of each resident. ~~(C)~~
- 2) Enhancing the coping capacity of the resident or his family. ~~(C)~~

- 3) Asserting and safeguarding the human and civil rights of the residents and their families, and fostering the human dignity and personal worth of each resident. ~~(C)~~

- b) The resident and his family shall be helped by social workers during the evaluation process, which may or may not lead to admission, to

## Section 390.1080(b) (continued)

consider alternative services, based on the resident's status and salient family and community factors, and to make a responsible choice as to whether and when residential placement is indicated. ~~(C)~~

- c) Each resident shall be evaluated within ~~thirty~~ ~~(30)~~ days of admission regarding the need for such services and the results of such evaluation shall be entered in the medical record.
- d) Social workers shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents for the purposes of initiation, monitoring, and follow-up of individualized habilitation programs. ~~(C)~~
- e) As appropriate during the developmentally disabled person's admission to and while receiving services in the facility, the social worker shall provide liaison between him, the facility, the family, and the community, so as to help the staff to: ~~(C)~~
  - 1) Individualize and understand the needs of the resident and his family in relation to each other. ~~(C)~~
  - 2) Understand social factors, including staff-resident relationships, in the resident's day-to-day behavior. ~~(C)~~
  - 3) Prepare the resident for changes in his living situation. ~~(C)~~
- f) Social workers shall help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility through: ~~(C)~~
  - 1) Collateral counseling concerned with problems associated with changes in family structure and functioning. ~~(C)~~
  - 2) Referral to specific services, as appropriate. ~~(C)~~
  - 3) Help the family to participate in planning for the resident's return to home or other community placement. ~~(C)~~
- g) The facility shall employ sufficient, appropriately qualified staff, and necessary supporting personnel to carry out the various social service activities to meet the program needs of the residents. (B, ~~C~~)
- h) If the facility designates a nonqualified social worker, then that

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## Section 390.1080(h) (continued)

such person shall receive adequate consultation from a qualified social worker as defined in Section 390.330.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_.)

## Section 390.1090 Speech Pathology and Audiology Services

a) The facility shall provide speech pathology and audiology services as needed by the residents, either directly, or indirectly by arrangements with an outside resource. These services shall be provided both directly by speech pathologists, audiologists and other personnel and indirectly through consultation with other persons involved in implementing residents communication improvement programs. (B-~~6~~)

b) Each resident shall be evaluated within ~~thirty~~ ~~(30)~~ days regarding the need for such services and the results of such evaluation shall be entered in the medical record.

c) The following services are to be provided each resident as indicated by screening and evaluation results:

1) Comprehensive audiological assessment of residents, as indicated by screening results, to include tests of puretone air and bone conduction, speech audiometry, and other procedures, as necessary, and to include assessment of the use of visual cues. ~~(C)~~

2) Assessment of the use of amplification. ~~(C)~~

3) Provision for procurement, maintenance, and replacement of hearing aids, as specified by a qualified audiologist. ~~(C)~~

4) Comprehensive speech and language evaluation of residents, as indicated by screening results, which include appraisal of articulation, voice, rhythm, and language. ~~(C)~~

5) Participation when appropriate in the continuing interdisciplinary evaluation of individual residents for purposes of initiation, monitoring, and follow up of individualized habilitation programs. ~~(C)~~

6) Treatment services including: Direct counseling with residents, consultation with appropriate staff for speech improvement and

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## Section 390.1090(c)(6) (continued)

speech education activities, and collaboration with appropriate staff to develop specialized programs for developing the communication skills of individuals in comprehension (for example, speech, reading, auditory training, and hearing aid utilization) as well as expression (for example, improvement in articulation, voice, rhythm, and language).

7) Participation in inservice programs for direct care and other staff. ~~(C)~~

8) Report evaluation and assessment results accurately and systematically, and in such manner as to, where appropriate, provide information useful to other staff working directly with the resident and to provide evaluative and summary reports for inclusion in the resident's unit record. ~~(C)~~

9) Continuing observations of treatment progress shall be recorded accurately, summarized, communicated and utilized in evaluating progress. ~~(C)~~

d) There shall be provided sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the various speech pathology and audiology services, in accordance with stated goals and objectives. (B-~~6~~)

e) Staff who assume independent responsibilities for clinical services shall meet the requirements as defined in Section 390.330. (B-~~6~~)

f) Adequate direction shall be provided personnel, volunteers, or supportive personnel utilized in providing clinical services. ~~(C)~~

g) Space, facilities, equipment, and supplies shall be adequate for providing efficient and effective speech pathology and audiology services. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_.)

## Section 390.1100 Recreational and Activity Services

a) 1) The facility shall provide recreational and activity services as necessary to meet the needs of the residents. These services shall be coordinated with other services and programs provided the residents, in order to make fullest possible use of both



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## Section 390.1100(a)(1) (continued)

community and facility resources and to maximize benefits to the residents. ~~(C)~~

- 2) Each resident shall be evaluated within ~~thirty (30)~~ days of admission regarding the need for services and the results of such evaluation shall be entered in the medical record.
- b) There shall be a specific planned program of group and individual activities designed to encourage restoration to self-care and maintenance of normal activity which is geared to the individual resident's needs. Activities shall be available daily and for a reasonable amount of time. Residents shall be given an opportunity to contribute to planning, preparation, conducting, cleanup, and critique of the program. (B-~~G~~)
- c)
  - 1) There shall be a trained staff person responsible for planning and directing the activity program. This person shall be on duty for a sufficient amount of time to provide a program that meets the residents' needs and interests. Additional activity personnel shall be provided as necessary to meet the needs of the residents and the program. (B-~~G~~)
  - 2) The staff person responsible for planning and directing the recreational services shall participate in the continuing interdisciplinary evaluation of individual residents needs for the purpose of initiating, monitoring, and follow-up of these programs.
- d) There shall be written permission, with any contraindications stated, given by the resident's physician for the resident to participate in the activity program. Standing orders will be acceptable with individual contraindications noted.
- e) The recreational and activity program shall include, as appropriate to the residents, the following program areas, at a minimum:
  - 1) Recreational activities (examples: age appropriate games, both quiet and active; parties; outside entertainment-~~etc.~~).
  - 2) Arts and crafts (suitable to meet residents' needs).
  - 3) Religious activities (examples: Bible study or discussion; Bible quizzes and games; hymn singing; grace at meals-~~etc.~~). These are in addition to routine religious services.

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## Section 390.1100(e) (continued)

- 4) Service activities for community ~~and/or~~ and facility (examples: assist with community fund drives; projects for orphanages; care of one's own area in the facility; helping to fold linen-~~etc.~~).
  - 5) Social activities (examples: grooming and social graces; planned group discussion; quizzes and word games; resident council; newsletter-~~etc.~~).
  - 6) Community activities (examples: residents' participation in community activities such as plays; church events; band concerts; tours; Girl Scouts and Boy Scouts-~~etc.~~).
  - 7) A planned volunteer ~~and/or~~ or auxiliary program that assists with the activities program shall be encouraged. It shall be under the direction of a staff member in a supervisory capacity.
  - 8) Documentation of residents' response to program shall be part of the residents' record as set forth in Section 390.1620(b)(2).
  - f) Equipment and supplies in sufficient quantity and variety shall be provided to carry out the stated objectives of the activities programs.
- (Source: Amended at 13 Ill. Reg.       , effective       )

## Section 390.1110 Educational Services

- a) The facility shall provide either directly or indirectly through arrangements with outside resources, educational programming to all residents.
  - b) The individual educational program for each resident shall meet those provisions of the School Code (Ill. Rev. Stat. ~~1981~~ 1987, ch. 122, pars. 1-1 et seq.) which are appropriate to meet the educational needs of that resident.
  - c) Each individual educational program shall be written and entered in the resident's record.
- (Source: Amended at 13 Ill. Reg.       , effective       )

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Section 390.1120 Work Activity and Prevocational Training Services

- a) Where appropriate, providers should cooperate with state and community agencies in assisting individual residents to avail themselves of specialized work activity programs, prevocational and work adjustment training, sheltered workshop programs, and other similar programs that are provided outside of the facility. (B-~~6~~-)
- b) Appropriate records shall be maintained for each resident functioning in these programs. These shall show appropriateness of the program for the individual, resident's response to the program and any other pertinent observations and shall become a part of the resident's record.
- c) Residents shall not be used to replace employed staff. (B-~~6~~-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART F: RESTRAINTS AND SAFETY DEVICES,  
BEHAVIOR MANAGEMENT, AND BEHAVIOR EMERGENCIES

Section 390.1310 Restraints and Safety Devices

- a) There shall be written policies, which are followed in the operation of the facility, covering the use of restraints and confinements. (B-~~6~~-)
- b) Restraints and confinements, as defined in Section 390.330 shall not be used except in an emergency or as an integral part of an Individual Behavior Program ordered by a physician. The emergency use of mechanical or chemical restraints requires the written order of a physician. (See subsection (c) of this Section ~~below~~.) Neither confinements nor restraints shall be used to punish or discipline a resident or as a convenience to the staff. (Safety devices such as vests, elbow cuffs, mittens, enclosed cribs or playpens, or other devices ordered by the physician may be applied to prevent a resident from falling or injuring himself.) (B-~~6~~-)
- c) There shall be written policies which are followed in the operation of the facility, controlling the use of safety devices. These policies shall be developed by the medical advisory committee with participation by nursing and administrative personnel. (B-~~6~~-)
- d) All safety devices shall be used only upon written order of the attending physician and for the safety and security of the residents. In an emergency a telephone order is acceptable if taken

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Section 390.1310(d) (continued)

- as specified in Section 390.1420(a). (B)
- e) The reasons for ordering and using safety devices shall be recorded in the resident's clinical record. The recordings shall contain ongoing evaluations of need for the safety devices and the measures being taken to reduce or eliminate the need for their use. ~~(C)~~
- f) A resident wearing a safety device shall have it released for a few minutes at least once every two ~~(2)~~ hours, or more often if necessary unless otherwise ordered by a physician. Residents in orthopedic chairs shall be removed from such chairs for at least ten ~~(10)~~ minutes every two ~~(2)~~ hours or more often and assisted to ambulate if necessary and their physical condition permits. The resident's position shall be changed at these times, and good skin care or other nursing needs provided. (B)
- g) No safety device with locks shall be used. (B)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 390.1320 Behavior Management

- a) Behavior management shall be conducted under the direction of a psychologist or Qualified Mental Retardation Professional with a behavior science education and one ~~(1)~~ year of experience in behavior management.
- b) The facility shall have written policies and procedures concerning behavior management as needed to meet the needs of the residents. These policies shall be directed to maximizing the growth and development of the resident and shall emphasize positive approaches. These policies shall contain at a minimum:
  - 1) A hierarchy of available methods from least to most restrictive.
  - 2) Policies that define the use of Individual Behavior Programs, the persons qualified to authorize them, and a mechanism for monitoring and controlling their use.
- c) Each resident shall have an Individual Behavior Program developed for ~~them~~ their, if deemed necessary by the facility's psychologist or Qualified Mental Retardation Professional. All Individual Behavior Programs shall be designed to facilitate the development of adaptive behaviors, replace maladaptive behaviors with those that are



## Section 390.1320(c) (continued)

more adaptive and appropriate, ~~and/or~~ and channel maladaptive behavior into more appropriate modes of expression. They shall utilize the least restrictive methods that are effective. When positive reinforcement is used solely for the purpose of improving adaptive or acceptable behavior, an Individual Behavior Program is not required. (B-~~6~~)

d) Each Individual Behavior Program shall be reviewed and approved by the interdisciplinary team, which must include, for this review, a psychologist or a Qualified Mental Retardation Professional with a behavior science education and one ~~41~~ year of experience in behavior management.

e) Each Individual Behavior Program shall specify:

- 1) the behavior objectives of the program;
- 2) the method to be used;
- 3) the schedule for the use of the method;
- 4) the person responsible for the program;
- 5) the data to be collected to assess progress toward the objectives.

f) Each Individual Behavior Program shall be available in the appropriate program and living areas, and to the resident and his family.

g) The facility shall not permit residents to discipline other residents. (B-~~6~~)

h) The facility shall maintain records of significant maladaptive behavior and the action taken by staff as a consequence of such behavior. ~~43~~

i) When food is provided as part of a behavior management program, its effect on nutrition and dental status shall be determined and considered. Such programs shall not employ, or result in, denial of a nutritionally adequate diet. (B-~~6~~)

j) When restriction is used for behavior management: (B)

- 1) It may be utilized only as an integral part of an Individual

## Section 390.1320(j)(1) (continued)

Behavior Program and shall be designed to lead to a less restrictive way of managing and ultimately eliminating the maladaptive behavior for which the restriction was employed, except in an emergency.

2) The facility shall obtain a written order approving the Individual Behavior Program from a physician. The order shall describe the restrictions to be used.

3) The events leading up to the need for restriction shall be recorded in the resident's clinical record.

4) The resident's record shall document the fact that less restrictive methods of modifying or replacing the behavior have been systematically tried and have been demonstrated to be ineffective.

5) The informed consent of the resident, resident's guardian, or parent of a minor resident, as applicable, to the use of the Individual Behavior Program, shall be obtained before implementation of the program.

6) The Individual Behavior Program shall, in addition to any other requirements of this Section 390.1320, specify the behavior to be modified and shall include explicit provision for gradual diminishing of the use of restriction and ultimate discontinuation of usage.

7) Any Individual Behavior Program utilizing chemical restraints shall specify a time limit not to exceed ~~thirty~~ (30) days. The program may be renewed only on the order of a physician, for periods not to exceed ~~thirty~~ (30) days at any one time.

8) Each use of restriction shall be recorded immediately in the resident's clinical record.

9) Aversive stimuli may be used only in an extreme last resort situation in which withholding it would be contrary to the best interest of the resident because his behavior is dangerous to himself or others and is extremely detrimental to his development. The resident's record shall document the fact that less restrictive methods have been systematically tried and have been demonstrated to be ineffective. (B-~~6~~)

## Section 390.1320 (continued)

- k) When time out is used for behavior management: (B)
- 1) It may be utilized only as an integral part of an Individual Behavior Program.
  - 2) It may not include the use of seclusion.
  - 3) The resident may be retained in a given area for a brief period of time. An open-top enclosure in which the resident can move freely and can see either over or through the sides may be utilized. A chair or mat must be provided, as appropriate.
  - 4) Time out for more than ~~fifteen (15)~~ minutes at any one time, for more than a total of ~~thirty (30)~~ minutes in any one ~~(1)~~ hour period, or for more than a total of two ~~(2)~~ hours in any eight ~~(8)~~ hour period, shall be effected only upon the written order, on each occasion, of the facility administrator or other designated supervisory or professional personnel. Consecutive periods of time out separated by less than five ~~(5)~~ minutes shall be considered as a single period of time out. The order shall state in detail the reason for the time out and may not be for a period of more than one ~~(1)~~ hour. No order for further time out may be written unless the facility administrator or designated supervisory personnel on duty at the time has reviewed the situation with the staff and has documented the need for another period of time.
  - 5) When time out exceeds ~~fifteen (15)~~ minutes at any one time, the situation shall be reviewed at least every ~~fifteen (15)~~ minutes by the facility administrator or designated supervisory personnel.
  - 6) A staff member shall be assigned to visually check on each person in time out at least every ~~fifteen (15)~~ minutes.
  - 7) A record must be kept for each period of time out. Each time a resident is placed in time out, entries shall be made, either in a separate log kept for this purpose or in the resident's record. For time out periods of ~~fifteen (15)~~ minutes or less, the following entries shall be made: name, number of periods of time out in a specified block of time (not to exceed four ~~(4)~~ hours). For time out periods of more than ~~fifteen (15)~~ minutes, the following entries shall be made: resident's name, time in, time out, name of authorized person signing written order for time out, reason resident was placed

## Section 390.1320(k)(7) (continued)

- in time out, and signature of staff member requesting time out. Staff member assigned to ~~fifteen (15)~~ minute checks must sign the log as the time checks are made, recording the time and the resident's condition. ~~(C)~~
- 8) All safety precautions shall be observed so that the patient cannot injure himself while in "time out." (A, B, ~~C~~)
  - 1) When behavior management is used to alleviate significant, chronic maladaptive behavior in a resident, it may be utilized only as an integral part of an Individual Behavior Program.
  - m) No form of seclusion shall be permitted. (B, ~~C~~)  
(Source: Amended at 13 Ill. Reg.         , effective         )
- Section 390.1330 Behavior Emergencies
- a) There shall be written policies which are followed in the operation of a facility when a behavior emergency occurs. (B, ~~C~~)
  - b) If a resident becomes unmanageable, the attending physician shall be contacted immediately and the resident shall be examined by the physician as soon as possible. (B, ~~C~~)
  - c) Mechanical or chemical restraints shall be used in a behavior emergency only upon a physician's order. The resident shall be examined by the physician within ~~forty-eight (48)~~ hours from the time the restraint has commenced. When the physician is not immediately available, a nurse with supervisory responsibility, or the facility administrator may approve in writing the use of mechanical restraints. A confirming order, which may be obtained by telephone, shall be obtained from the physician within eight ~~(8)~~ hours, and a written order shall be obtained from the physician within ~~forty-eight (48)~~ hours. If the original approval was issued by someone who is not a Registered Nurse, the approval is countersigned by a Registered Nurse within eight ~~(8)~~ hours, or the restraint discontinued. (B)
  - 1) No order for a restraint shall be valid for more than ~~forty-eight (48)~~ hours. If further restraint is required, a new order must be signed by a physician. (B)
  - 2) Restraints and confinements may be applied only by personnel



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trained in proper application and observation of the restraint.  
(B)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## .SUBPART G: MEDICATIONS

## Section 390.1410 Medication Policies and Procedures

- a) Every facility shall adopt written policies and procedures, which are consistent with the purpose of the Act and this Part and which shall be followed in the operation of the facility, for properly and promptly obtaining, dispensing, administering, and disposing of drugs and medications. These policies and procedures shall be in compliance with all applicable Federal, State and local laws. (A, B) These policies and procedures shall be developed with the advice of a pharmaceutical advisory committee which includes at least one ~~(1)~~ licensed pharmacist, one ~~(1)~~ physician, the administrator and the Director of Nursing Services. This committee shall meet at least quarterly. (B-~~6~~)

- b) All legend medications maintained in the facility shall be on individual prescription or from the physician's personal office supply, and shall be properly labeled as set forth in Section 390.1440(f). A physician who supplies medicine from his personal office supply must comply with the ~~all~~ requirements of Section 33 of the "Illinois Medical Practice Act," of 1987 (Ill. Rev. Stat. 1981, ch. 111, par. 4401-4401-33 ~~et seq.~~) and the ~~"Illinois Controlled Substances Act" (Ill. Rev. Stat. 1981, ch. 56-1/2, par. 1101 et seq.), and the rules promulgated thereunder.~~ (B-~~6~~)

- c) All medications administered shall be properly recorded as set forth in Section 390.1620(b)(16). (B-~~6~~)

- d) The staff pharmacist or consultant pharmacist shall participate in the planned in-service education program of the facility on topics related to pharmaceutical services. ~~(6)~~

- e) Permission must be obtained from this Department prior to the opening of any pharmacy in a facility. Such permission will be granted only if it can be shown that the operation of the pharmacy will not interfere in any way with the residents. The pharmacist shall then obtain a license to operate the pharmacy in accordance with the rules

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## Section 390.1410(e) (continued)

of the Illinois Department of ~~Registration and Education~~  
Professional Regulation. ~~(6)~~

- f) No facility shall maintain a stock supply of controlled drugs or legend drugs, except for those emergency life saving drugs required in the emergency medication kit, as described in subsection(j) of this Section ~~below~~. (B-~~6~~)

- g) A facility may stock only drugs which are regularly available without prescription at a commercial pharmacy, such as: noncontrolled cough syrups, laxatives, and analgesics. These shall be given to a resident only upon written order of the physician, dentist, or podiatrist, shall be administered from the original containers, and shall be recorded in the resident's clinical record. (B-~~6~~)

- h) A facility may keep "convenience boxes" containing a reasonable number of medications normally used to treat conditions when residents suddenly become ill in non-life-threatening situations. There shall be no more than six ~~(6)~~ single doses of any one medication for each ~~one hundred (100)~~ licensed beds or portion thereof. Such conditions may include, but are not limited to; convulsions, serious emotional upsets, diarrhea, infection, severe pain, etc. A dose shall be that amount listed by the manufacturer as the "usual dose" of the medication for adults. If the "usual dose" is two ~~(2)~~ tablets, the facility may keep ~~twelve (12)~~ tablets in the convenience box. (B-~~6~~)

- 1) The contents and number of these "convenience boxes" shall be determined by the pharmaceutical advisory committee, and there shall be a label on the outside of each box, listing the contents. (B-~~6~~)

- 2) Each "convenience box" shall be under the control of the pharmacy which supplies the contents of the box, and it shall be kept in a locked medicine room or cabinet. (B-~~6~~)

- 3) No Schedule II substances shall be kept in "convenience boxes." (B-~~6~~)

- 1) Emergency medication kits containing drugs necessary for life saving measures shall be approved by the facility's pharmaceutical advisory committee, and shall be available for immediate use at all times in locations as determined by the pharmaceutical advisory committee. (B-~~6~~)

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## Section 390.1410(i) (continued)

- 1) In order to provide better security for the contents of these kits, it is recommended that some type of seal be placed on each kit after it has been checked and refilled. This would ensure that the contents of each kit are intact when needed in an emergency.
- 2) These kits shall consist of no more than three ~~(3)~~ single, injectable doses of only a few medications, such as those necessary to treat: cardiac arrest, acute coronary, acute cardiac failure, asthmatic ~~and/or~~ and allergic reactions, acute convulsions, acute pain, shock, diabetic coma, insulin shock, and an acute respiratory infection requiring emergency administration of a starter dose of an injectable antibiotic. The kits should also contain all of the equipment needed to administer these medications, such as a tourniquet, proper size needles and syringes, and alcohol swabs. It is also permissible to have an airway in these kits. (A, B-~~6~~)
- 3) The contents of these kits shall be labeled on the outside of each kit. The kits shall be refilled as needed. They shall be reviewed by the pharmaceutical advisory committee regarding content at least quarterly. Written documentation of this review shall be maintained. (B-~~6~~)
- j) Since emergency medication kits must be available for immediate use at all times, the following requirements must be met when controlled substances are kept as part of the emergency medication kits: (B-~~6~~)
  - 1) The controlled substances must be stored separately in a locked cabinet or room, and labeled as to substance and the fact that they are a part of the emergency medication kit. The label of the emergency kit shall list the substances and the specific location where they are stored. (B-~~6~~)
  - 2) The controlled substances must be obtained from a drug Enforcement Administration registered hospital, pharmacy, or practitioner. (B-~~6~~)
  - 3) Only the director of nursing services, registered nurse on duty, licensed practical nurse on duty, consultant pharmacist or practitioner shall have access to these controlled substances. (B-~~6~~)
  - 4) No more than ten different controlled substances shall be kept

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## Section 390.1410(j)(4) (continued)

- as part of an emergency medication kit, and there shall be no more than three single, injectable doses of any one controlled substance. (B-~~6~~)
- 5) These controlled substances may be administered only under the emergency conditions set forth in subsection(i)(2) of this Section ~~above~~ and only by registered nurses, licensed practical nurses or practitioners, in compliance with 21 CFR 1306.11 and 21 CFR 1306.21 and the Department of ~~Registration and Education's~~ Professional Regulation's rules for the administration of the Illinois Controlled Substance Act (77 Ill. Adm. Code 1650.520). (B-~~6~~)
- 6) A proof-of-use sheet shall be stored with each separate controlled substance. Entries shall be made on the proof-of-use sheet by the nursing staff or practitioner when any controlled substance from the kit is used. The consultant pharmacist shall receive and file for two years a copy of all completed proof-of-use sheets. (B-~~6~~)
- 7) Whenever the controlled substance portion of an emergency medication kit is opened, the consultant pharmacist shall be notified within 24 hours. During any period when this kit is opened, a shift count shall be done on all controlled substances until the kit is closed or locked by the consultant pharmacist. Shift counts are not mandatory when the kit is sealed. Proper forms for shift counts shall be kept with these portions of emergency medication kits. (B-~~6~~)
- 8) The consultant pharmacist shall check the controlled substances portions of emergency medication kits at least monthly and so document on the outside of the kit. (B-~~6~~)
- 9) Failure to comply with any provision of this Section, or of any applicable provision of state or federal statutes or regulations pertaining to controlled substances shall result in loss of the privilege of having or placing controlled substances in emergency medication kits until such time as the facility can demonstrate that it is in compliance with such regulations. This is in addition to the usual methods of corrective action available to the Department, such as fines ~~and/or~~ and other penalties.
- k) Oxygen may be administered in a facility either as concentrated bottled oxygen or via means of an oxygen concentrator. Storage and



Section 390.1410(k) (continued)

handling of the bottled oxygen supply shall be in accordance with the 1977 National Fire Protection Association Standards, but no subsequently amended edition of the Standards, for nonflammable medical gas systems. (See Section 390.2620 or Section 390.2920 as appropriate). The facility must be compliance with directions for use of oxygen concentrators as established by the manufacturer. (A, B-~~G~~)

(Source: Amended at 13 Ill. Reg.           , effective           )

Section 390.1420 Conformance with Physician's Orders

a) All medications including cathartics, headache remedies, or vitamins shall be given only upon the written order of a physician. All such orders shall have the handwritten signature of the physician (Rubber stamp signatures are not acceptable.) These medications shall be given as prescribed by the physician and at the designated time. (A, B-~~G~~) Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written on the resident's clinical record, or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within five ~~45~~ working days. Facilities participating in Medicare/Medicaid must meet the applicable Federal regulations. (B-~~G~~)

b) Review of medication orders: The staff pharmacist or consultant pharmacist shall review the medical record, including physician orders and laboratory test results, at least monthly and, based on ~~his/her~~ their clinical experience and judgment, determine if there are irregularities which would cause potential adverse reactions, allergies, interactions, contraindications, or ineffectiveness. This review shall be done at the facility. Documentation of this review must be entered in the resident's clinical record. Any irregularities noted shall be reported to the attending physician, the advisory physician, and the administrator. (A, B-~~G~~)

c) A medication order not specifically limiting the time or number of doses shall be automatically stopped in accordance with written policy approved by the pharmaceutical advisory committee. (B-~~G~~)

d) The resident's attending physician shall be notified of medications about to be stopped so that ~~he/she~~ the physician may promptly renew such orders to avoid interruption of the resident's therapeutic regimen. (B-~~G~~)

Section 390.1420 (continued)

e) All medications to be released to the resident, or person responsible for his care, at the time of discharge or when the resident is going to be temporarily out of the facility at medication time, (such as when attending a vocational training program or on a week-end pass), shall be approved by the physician. A notation concerning their disposition shall be made on the resident's clinical record. ~~(G)~~

(Source: Amended at 13 Ill. Reg.           , effective           )

Section 390.1430 Administration of Medication

a) All medications shall be administered only by licensed medical or licensed nursing personnel in accordance with their respective licensing requirements. (Some schools of nursing, especially some licensed practical nursing schools, do not include pharmacology courses. It is required that graduates of these schools successfully complete a course in pharmacology or have at least one year's full-time equivalent experience in administering medications in a health care setting, in order to be considered to "have either training or experience, or both, in the job assigned to them" (Section 390.670(b)(2)), if their duties include administering medications to residents.) (A, B-~~G~~) Attorney General's Opinion File No. S-1033 ~~5-1033~~, dated January 9, 1976 concluded that the administration of medication to residents of licensed long-term care facilities is a nursing procedure, as defined in the Illinois Nursing Act (Ill. Rev. Stat. 1973, ch. 91, pars. 35.32 et seq.), and as such, cannot be performed by persons who are not licensed as either Registered Professional Nurses or Licensed Practical Nurses. The opinion concluded by stating that "nursing aids, orderlies, attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer medications to patients in nursing homes."

1) Medications shall be administered as soon as possible after doses are prepared and administered by the same person who prepared the doses for administration, except under single unit dose packaged distribution systems. (B-~~G~~)

2) Each dose administered shall be properly recorded in the clinical records by the person who administers the dose. (See Section 390 ~~sub~~(16)) (A, B-~~G~~)

3) Self-administration of medication shall be permitted only upon the written order of the attending physician. (B-~~G~~)

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## Section 390.1430 (continued)

- b) The facility shall have medication cards, or acceptable substitutes, which shall be used and checked against the physician's orders when administering medications to assure proper administration of medicine to each resident. Such records as computer generated medication sheets may be used. These cards shall include or be accompanied by recent photographs or other means of easy identification such as resident identification wristbands. Medication records shall contain resident's name, diagnoses, known allergies, current medications, and, if possible, a history of prescription and non-prescription medications taken by the resident during the ~~thirty (30)~~ days prior to admission to the facility. (B-~~6~~)
- c) Medications prescribed for one resident shall not be administered to another resident. (B-~~6~~)
- d) If for any reason, a physician's medication order cannot be followed, the physician shall be notified as soon as is reasonable depending upon the situation and a notation made on the resident's record. (B-~~6~~)
- e) Medication errors and drug reactions shall be immediately reported to the resident's physician and the consulting pharmacist. An entry thereof shall be made in the resident's clinical record and the error or reaction shall also be described on an incident report. (A, B)
- f) Nurses' stations shall be equipped as per Section 390.2660(e) or Section 390.2960(d) and shall have all necessary items readily available for the proper administration of medications. ~~(C)~~
- g) Current medication references shall be available, such as the current edition of "Facts and Comparisons, Hospital Formulary," "Physician's Desk Reference" or other suitable references. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.1440 Labeling and Storage of Medications

- a) All medications for all residents shall be properly labeled and stored at, or near the nurses' station in a locked cabinet, in a locked medication room, or one or more locked mobile medication carts of satisfactory design for such storage. (See subsection (f) and (g) of this Section ~~below~~) (B)

- 1) These cabinets, rooms, ~~and/or~~ and carts shall be well lighted

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- and of sufficient size to permit storage without crowding. (B-~~6~~)
- 2) All mobile medication carts shall be under the visual control of the responsible nurse at all times when not stored safely and securely, either in a locked room or otherwise made immobile. (B-~~6~~)
- b) All medications for external use shall be kept in a separate area in the medicine cabinet, medicine room or mobile medication cart. (B-~~6~~)
- c) All poisonous substances and other hazardous compounds, such as sterilization solutions, irrigation solutions, antiseptics, and diagnostic reagents ~~etc.~~ shall be kept in a separate locked container away from medications. (B)
- d) Biologicals or medications requiring refrigeration shall be kept in a separate securely fastened locked box within a refrigerator or a locked refrigerator, at or near the nurses' station or in a refrigerator within a locked medication room. (B)
- e) The key to the medicine cabinet, medicine room ~~and/or~~ or mobile medication cart shall be the responsibility of, and in the possession of, the persons authorized to handle and administer medications at all times. (B-~~6~~)
- f) The label of each individual multidose medication container filled by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name, strength and quantity of drug, date this container was last filled, the initials of the pharmacist filling the prescription, the identity of the pharmacy, the refill date, and any necessary special instructions. If the individual multidose medication container is filled by a physician from his own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist and prescription number. ~~(C)~~
- g) Each single unit ~~and/or~~ or unit dose package shall bear the proprietary ~~and/or~~ and nonproprietary name of the drug, strength of dose and total contents delivered, lot or control number, and expiration date, if applicable. The names of the resident and the physician do not have to be on the label of the package, but they must be identified with the package in such a manner as to assure that the drug is administered to the right resident. Appropriate



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## Section 390.1440(g) (continued)

accessory and cautionary statements and any necessary special instruction shall be included, as applicable. Hardware for storing and delivering the medications shall have a label bearing the identity of the dispensing pharmacy. The pharmacist shall provide written verification of the date the medications were dispensed and the initials of the pharmacist who reviewed and verified the medications on hand. The pharmacist need not store such verification at the facility but shall readily make it available to the Department upon request. The lot or control number need not appear on unit dose packages if the dispensing pharmacy has a system for identifying those doses recalled by the manufacturer/distributor or if the dispensing pharmacy will recall and destroy all dispense doses of a recalled medication, irrespective of a manufacturer's/distributor's specifically recalled lot. (B-~~7~~-G-)

- h) Medication in containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Medications in containers having no labels shall be destroyed in accordance with Federal and State laws. (B-~~7~~-G-)

- i) The medications of each resident shall be kept and stored in their originally received containers. Medications shall not be transferred between containers, except that a licensed nurse may remove medication from original containers and place it in other containers to be sent with a resident when the resident will be out of the facility at the time of scheduled administration of medication, as, for instance, when the resident is on a home visit or away from the facility for employment, workshop, or educational activities. When medication is sent out of the facility with the resident, it shall be labeled by the nurse with the name of the resident, name of the medication, instructions for taking and any other appropriate information. (B-~~7~~-G-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1450 Control of Narcotics and Legend Drugs

- a) The facility shall comply with all Federal and State laws and regulations relating to the procurement, storage, dispensing, administration, and disposal of medications.
- b) All Schedule II controlled substances shall be stored in such a manner so that two ~~(2)~~ separate locks, using two ~~(2)~~ keys, must

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## Section 390.1440(i) (continued)

be unlocked to obtain these substances. This may be accomplished by several methods such as locked cabinets within locked medicine rooms, separately locked, securely fastened boxes (or drawers) within a locked medicine cabinet, locked portable medication carts, which are stored in locked medicine rooms when not in use or portable medication carts containing a separate locked area within the locked medication cart, when such cart is made immobile. (B-~~7~~-G-)

- c) 1) All discontinued medications, or those having an expiration date that has passed, and all medications of residents who have been discharged or who have expired, shall be disposed of in accordance with the written policies and procedures that have been established by the facility in accordance with Section 390.1410.
- 2) This Section shall not apply to residents who have been temporarily transferred to a hospital or who are on a temporary home visit. Medications for such persons shall be kept in the facility until such time as the resident expires or is discharged from the facility. (B-~~7~~-G-)

d)

- 1) For all Schedule II substances, a controlled substances record shall be maintained which lists on separate sheets, for each type and strength of Schedule II Substance, the following information: date, time administered, name of resident, dose, physician's name, signature of person administering dose, and number of doses remaining. ~~(C-)~~

- 2) The pharmaceutical advisory committee may also require that other medications shall be subject to such inventory records.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: RESIDENT AND FACILITY RECORDS

## Section 390.1610 Resident Record Requirements

- a) Each facility shall have a medical record system that facilitates the retrieval of information regarding individual residents as demonstrated by the facility. ~~(C-)~~
- b) The facility shall keep an active medical record for each resident.

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## Section 390.1610(b) (continued)

This resident record shall be kept current, complete, legible and available at all times to those personnel authorized by the facility's policies, and to the Department's representatives. ~~(C)~~

## c) Record entries shall meet the following requirements:

- 1) Record entries shall be made by the person providing or supervising the service or observing the occurrence that is being recorded. ~~(C)~~
- 2) Each record entry shall be written in ink or typed, shall be signed, dated, and shall include the profession or title of the person making the entry. ~~(C)~~

d) All physician's orders, plans of treatment, Medicare or Medicaid certification, recertification statements, and similar documents shall have the original written signature of the physician. The use of a physician's rubber stamp signature, with or without initials, is not acceptable. ~~(C)~~

e) An ongoing resident record including progression toward and regression from established resident goals shall be maintained. ~~(B)~~ ~~(C)~~

1) The progress record shall indicate significant changes in the resident's condition. Any significant change shall be recorded upon occurrence by the staff person observing the change. ~~(B)~~ ~~(C)~~

2) Recommendations and findings of direct service consultants, such as providers of social, dental, dietary or habilitation services, shall be included in the resident's progress record when the recommendations pertain to an individual resident. ~~(C)~~

f) A medication administration record shall be maintained which contains the date and time each medication is given, name of drug, dosage, and by whom administered. ~~(C)~~

g) Treatment sheets shall be maintained recording all resident care procedures ordered by each resident's attending physician. Physician ordered procedures which shall be recorded include, but are not limited to, the prevention and treatment of decubitus ulcers, weight monitoring to determine a resident's weight loss or gain, catheter/ostomy care, blood pressure monitoring, and fluid intake and output. ~~(C)~~

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## Section 390.1610 (continued)

h) The records maintained for each resident shall be adequate for:

- 1) Planning and continuously evaluating each resident's habilitation program,
- 2) Furnishing evidence of each resident's progress and response to the habilitation program, and
- 3) Protecting each resident's legal rights.

i) The facility shall have the option of using universal progress notes in the medical records.

j) Each facility shall have a policy regarding the retirement and destruction of medical records. This policy shall specify the time frame for retiring a resident's medical record, and the method to be used for record destruction at the end of the record retention period. The facility's record retirement policy shall not conflict with the record retention requirements contained in Section 390.1650 of this Part. ~~(C)~~

k) Discharge information shall be completed within ~~forty-eight~~ 48 hours after the resident leaves the facility.

1) Within ~~forty-eight~~ 48 hours after the resident leaves the facility the resident care staff shall record the date, time, condition of the resident, to whom released, and the resident's planned destination (home, another facility, undertaker). This information may be entered onto the admission record form. ~~(C)~~

2) The discharge information shall also include reasons for discharge, diagnosis, individual habilitation plan, physical, pertinent medical and social histories, orders and staff recommendations for immediate care to ensure the optimal continuity of care for the resident.

l) At the time of discharge, the facility shall provide those responsible for the resident's post-discharge care with an discharge summary. A copy of this discharge summary shall be retained as a part of the resident record.

m) When a resident is temporarily transferred to another location, the facility shall provide the temporary caretaker with medical and other information necessary and useful in the care and treatment of the



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## Section 390.1610(m) (continued)

resident.

- n) At least six months prior to a resident's ~~eighteenth~~ 18th birthday, the facility shall complete a report regarding the resident's guardianship status and any actions needed to establish guardianship.
- o) Each resident record is the property of the facility. The facility shall be responsible for securing resident record information against loss, defacement, tampering or use by unauthorized persons.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1620 Content of Medical Records

- a) No later than the time of admission, the facility shall enter the following information onto the identification sheet or admission sheet for each resident:

- 1) Name, sex, date of birth and Social Security Number,
- 2) Whether the resident has been previously admitted to the facility,
- 3) Date of current admission to the facility,
- 4) State or country of birth,
- 5) Religious affiliation (if any),
- 6) Name, address and telephone number of any referral agency, state hospital, zone center or hospital from which the resident has been transferred (if applicable),
- 7) Name and telephone number of the resident's personal physician,
- 8) Name and telephone number of the resident's next of kin or responsible relative,
- 9) Race and origin,
- 10) Father's name and mother's maiden name, Social Security numbers, birthplaces, address and marital status of resident's parents.

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## Section 390.1620(a) (continued)

- 11) Name, address and telephone number of the resident's dentist, and
  - 12) The diagnosis applicable at the time of admission.
- b) The following information shall be obtained and entered in the resident's record at the time of admission:
- 1) Height, weight, color of hair and eyes, any identifying marks, and recent photograph,
  - 2) Reason for admission or referral, as well as any prognosis that is available,
  - 3) Type and legal status of admission,
  - 4) Legal competency status,
  - 5) Language spoken or understood,
  - 6) Results of the preadmission evaluation conducted pursuant to Section 390.630(a) of this Part, previous histories and any other previous evaluations available.
  - 7) At the time of admission, the facility shall obtain a history of prescription and non-prescription medications taken by the resident during the ~~thirty~~ 30 days prior to admission to the facility (if available).
- c) Within ~~fourteen~~ 14 days of admission, each resident's record shall contain an individual habilitation plan which shall be reviewed and updated in accordance with the requirements specified in Section 390.1010(c) of this Part.
- d) Within one month of admission, each resident's record shall contain a statement of prognosis that can be used for programming and placement.
- e) In addition to the information that is specified above, each resident's medical record shall contain the following:

- 1) Medical history and physical examination form that includes conditions for which medications have been prescribed, physician findings, known diagnoses and prognosis, if available. This shall delete those known conditions that the medical and resident care staff should be apprised of regarding the resident. Examples of diagnoses and conditions that are to be

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## Section 390.1620(e)(1) (continued)

- included are allergies, epilepsy, diabetes and asthma. ~~(C)~~
- 2) A physician's order sheet that includes orders for all medications, treatments, therapy and habilitation services, diet, activities and special procedures or orders required for the safety and well-being of the resident. ~~(C)~~
  - 3) Nurse's notes that describe the nursing care provided, observations and assessment of symptoms, reactions to treatments and medications, progression toward or regression from each resident's established goals, and changes in the resident's physical or emotional condition. ~~(B, C)~~
  - 4) An ongoing record of notations describing significant observations or developments regarding each resident's condition and response to treatments and programs.
    - A) Physicians and other consultants who provide direct care or treatment to residents shall make notations at the time of each visit with a resident. ~~(C)~~
    - B) Significant observations or developments regarding resident responses to activity programs, social services, dietary services, work programs and nursing and personal care shall be recorded as they are noted. If no significant observations or developments are noted for a month, an entry shall be made in the record of that fact. ~~(C)~~
  - 5) Any laboratory and x-ray reports ordered by the resident's physician. ~~(C)~~
  - 6) Documentation of visits to the resident by a physician and to the physician's office by the resident. ~~(C)~~ The physician shall record, or dictate and sign, the results of such visits, such as changes in medication, observations and recommendations made by the physician during the visits, in the record.
  - 7) The results of the physical examination conducted pursuant to Section 390.1030(f) of this Part. ~~(C)~~
  - 8) Upon admission from a hospital or state facility, a hospital summary sheet or transfer form that includes the hospital diagnosis and treatment, and a discharge summary. This transfer information, which may be included in the transfer agreement, shall be signed by the physician who attended the resident while

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## Section 390.1620(e)(8) (continued)

- in the hospital.
- 9) Reports of overall reviews and evaluations of each resident's individualized program plan. These reports shall identify the developmental progress and status of each resident, and shall be completed at least semi-annually by each professional discipline providing services to the resident.
  - 10) Any correspondence pertaining to the resident's program.
  - 11) Records of significant behavior incidents, reactions to any family visits and contacts, and attendance at programs.
  - 12) An update of the information recorded at the time of admission. This update shall be performed at least once every ~~twelve~~ <sup>12</sup> months, with changes in information relevant to the resident's personal physician and responsible relative to be recorded as they occur.
  - 13) Appropriate authorizations and consents.
  - 14) Weekly record of resident's weight, unless a different interval is ordered by the physician.
  - 15) Records on leaves and temporary transfers, which shall include date, time, condition of resident, to whom released, planned destination, anticipated date of return, and any special instructions on medication dispensed.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.1630 Confidentiality of Resident's Records

- a) All information contained in a resident's record, including any information contained in an automated data bank, shall be considered confidential. The facility shall permit the appropriate State and federal agencies (such as Illinois Departments of Public Aid, Public Health, and Mental Health and Developmental Disabilities, and the U.S. Department of Health and Human Services) to have access to resident records.
- b) The facility shall develop and implement written policies governing access to, duplication of, and dissemination of information from medical records.



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## Section 390.1630 (continued)

- c) The facility shall obtain written consent of the resident, or, if a guardian, the resident's guardian, prior to any release of any resident record information to persons not authorized to receive the information.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1640 Records Pertaining to Residents' Property

- a) The facility shall maintain a record of any resident's belongings, including money, valuables and personal property, accepted by the facility for safekeeping. This record shall be initiated at the time of admission and shall be updated on an ongoing basis and made part of the resident's record. ~~(C)~~

- b) When purchases are made for a resident from the resident's personal monies, receipts shall be obtained and retained that verify the date, amount, and items purchased. ~~(C)~~

- c) A separate bookkeeping system shall be maintained by the facility which accounts for all transactions affecting each resident's account. Each individual resident, or the individual resident's representative, shall have access to the record of that individual resident's account. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1650 Retention and Transfer of Resident Records

- a) Records of discharged residents shall be placed in an inactive file and retained as follows:

- 1) Records for any resident who is discharged prior to being ~~eighteen~~ ~~(18)~~ years old shall be retained at least until the resident reaches the age of ~~twenty-three~~ ~~(23)~~. ~~(C)~~
- 2) Records of residents who are over ~~eighteen~~ ~~(18)~~ years old at the time of discharge shall be retained for a minimum of five ~~(5)~~ years. ~~(C)~~

- b) After the death of a resident, the resident's record shall be retained for a minimum of five ~~(5)~~ years. ~~(C)~~

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## Section 390.1650 (continued)

- c) It is suggested that the administrator check with legal counsel regarding the advisability of retaining resident records for a longer period of time, and the procedures to be followed in the event the facility ceases operation.

- d) When a resident is transferred to another facility, the transferring facility shall send with the resident a reason for transfer, summary of treatment and results, laboratory findings, and orders for the immediate care of the resident. This information may be presented in a transfer form or an abstract of the resident's medical record. ~~(B)(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1660 Other Resident Record Requirements

This Section contains references to rules located in other Subparts that pertain to the content and maintenance of medical records.

- a) The resident's record shall include facts involved if the resident's discharge occurs despite medical advice to the contrary, as required by Section 390.630(d) of this Part.

- b) The resident's record shall include information regarding the physician's notification and response regarding any serious accident or injury, or significant change in condition, as required by Section 390.1030(j) of this Part.

- c) The resident's record shall contain the physician's permission, with contraindications noted, for participation in the activity program, as required by Section 390.1100(d) of this Part.

- d) The records of residents participating in work activity or prevocational training programs shall document the appropriateness of the program for the resident and the resident's response to the program, as described in Section 390.1120(b) of this Part.

- e) The resident's record shall identify the reasons for any order and use of safety devices or restraints, as required by Section 390.1310(e) of this Part.

- f) The resident's record shall contain any orders specifying the use of mechanical or chemical restraints in a behavior emergency, as specified in Section 390.1330(c) of this Part.

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## Section 390.1660 (continued)

- g) Telephone orders shall be transcribed into the resident's medical record or a telephone order form and signed by the nurse taking the order, as described in Section 390.1420(a) of this Part.
- h) Documentation of the review of medication orders shall be entered in ~~to~~ the resident's medical record as described in Section 390.1420(b) of this Part.
- i) The resident's medical record shall include notations indicating any release of medications to the resident or person responsible for the resident's care, as described in Section 390.1420(e) of this Part.
- j) Instances of inability to implement a physician's medication order shall be noted in the resident's medical record, as described in Section 390.1430(d) of this Part.
- k) Medication errors and drug reactions shall be noted in the resident's medical record as described in Section 390.1430(e) of this Part.
- l) The resident's record shall include the physician's diet order and observations of the resident's response to the diet, as described in Section 390.1840(a) and (c) of this Part.
- m) The resident's record shall contain any physician determinations that limit the resident's access to the resident's personal property, as described in Section 390.3210(b) of this Part.
- n) The facility shall comply with Section 390.3210(g) of this Part, which requires that any medical inadvisability regarding married residents residing in the same room be documented in the resident's record.
- o) The facility shall maintain a record of approval granted for children of both sexes over ~~under~~ the age of six who occupy the same room, as described in Sections 390.660(c), 390.2660(b)(5), and 390.2960(a)(5) ~~required by Section 390.3210(b)~~ of this Part.
- p) The facility shall permit each resident, resident's parent, guardian or representative to inspect and copy the resident's medical records as provided by Section 390.3220(g) of this Part.
- q) Any resident transfer or discharge mandated by the physical safety of other residents shall be documented in the resident's medical record as required by Sections 390.3300(d) and (g) of this Part.

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## Section 390.1660 (continued)

- r) Summaries of discussions and explanations of any planned involuntary transfers or discharges shall be included in the medical record of the resident that is to be involuntarily transferred or discharged, as described in Section 390.3300(j) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1670 Staff Responsibility for Medical Records

The facility shall designate a staff member skilled in record maintenance and preservation who shall be responsible for maintaining and preserving medical records. If the designated person is not a medical records practitioner (as defined in Section 390.330), then the designated person shall receive consultation from a medical records practitioner in order to meet the medical record requirements contained in this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1680 Retention of Facility Records

The facility shall retain the records referenced in this Section for a minimum of three years. ~~(c)~~ It is suggested that the administrator check with legal counsel regarding the advisability of retaining records for a longer period of time, and the procedures to be followed in the event the facility ceases operation. The records for which this requirement applies are as follows:

- a) The annual financial statement described in Section 390.210 of this Part.
- b) The minutes of resident advisory council meetings required by Section 390.650(j) of this Part.
- c) The records of in-service training required by Section 390.670(b)(4) of this Part.
- d) Copies of reports of serious incidents or accidents involving residents required by Section 390.700 of this Part.
- e) Records of the emergency medication kit review by the pharmaceutical advisory committee required by Section 390.1410(i)(3) of this Part.
- f) The reports of findings and recommendations from consultants required



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## Section 390.1680(f) (continued)

in Section 390.1690(a) of this Part.

- g) Copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation as required by Section 390.1690(d) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.1690 Other Facility Record Requirements

- a) The facility shall maintain a file of reports of findings and recommendations from consultants. Each report shall be dated and indicate each specific date and time the consultant was in the facility. ~~(C)~~
- b) The facility shall complete the Illinois Department of Public Health Annual Long Term Care (LTC) Facility Survey. ~~(C)~~
- c) The facility shall maintain a permanent chronological resident registry showing date of admission, name of resident and date of discharge or death. ~~(C)~~
- d) The facility shall make available to the Department upon request copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation. ~~(C)~~
- e) Rules located in other Sections of this Part that pertain to the content and maintenance of facility records are as follows:
  - 1) The facility shall file an annual financial statement as described in Section 390.210 of this Part.
  - 2) Records and daily time schedules shall be kept on each employee as set forth in Section 390.670(a) and (b) of this Part.
  - 3) The facility shall maintain a controlled substances record as described in Section 390.1450(d) of this Part.
  - 4) Menu and food purchase records shall be maintained as set forth in Section 390.1880(d) and (f) of this Part.
  - 5) The facility shall maintain a file of all reports of serious

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## Section 390.1690(e)(5) (continued)

incidents or accidents involving residents as required by Section 390.700 of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART I: FOOD SERVICE

## Section 390.1810 Director of Food Services

- a) Each facility shall have a director of food service who shall be either a dietitian or a dietetic service supervisor as defined in Section 390.330. ~~(B-6)~~

1) The director of food service shall be a full-time person, suited by training and experience who has been designated by the administrator to be responsible for the total food service operation of the facility. This person shall be on duty a minimum of ~~forty~~ ~~(40)~~ hours each week. ~~(B-6)~~

2) The head cook may be designated to fill this position as long as it does not interfere with the responsibilities of either position. ~~(C)~~

- b) Consultation. If the person responsible for food services is not a dietitian, he shall have frequent and regularly scheduled consultation from a qualified dietitian. This consultation, given in the facility, shall be not less than eight ~~(8)~~ hours each month and shall include consultation and training in all food service procedures such as menu planning ~~and/or~~ and review, food preparation, food storage, food service safety, sanitation and management of therapeutic diets and in-service education. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.1820 Dietary Staff in Addition to Director of Food Services

There shall be sufficient number of food service personnel employed and on duty. Their working hours shall be scheduled to meet the total dietary needs of the residents. All dietary employees' time schedules and work assignments shall be posted in the kitchen. Dietary duties and job procedures shall be available in the dietary department for employees' knowledge and use. ~~(B-6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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Section 390.1830 Hygiene of Dietary Staff

Food service personnel shall be in good health, shall practice hygienic food handling techniques, and good personal grooming. (~~B, C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 390.1840 Diet Orders

- a) Physicians shall write, in the medical record, a diet order for residents indicating whether the resident is to have a general or a therapeutic diet and the diet shall be served as ordered. (~~C~~)
- b) A diet order for each resident shall be sent in writing to the food service department for each new admission and for every subsequent change in diet for that resident as ordered by his physician. The diet order shall include, but is not limited to, the following information: name of resident, room or ~~and/or~~ bed number, type of diet, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department. (~~C~~)
- c) The residents shall be observed to determine acceptance of the diet and these observations shall be recorded in his record and reported to the dietitian. Any significant changes in weight shall also be reported to the dietitian. (~~B, C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 390.1850 Adequacy of Diet and Meal Pattern (~~A, B~~)

- a) The diet for all residents shall be as prescribed by the attending physician.
- b)
  - 1) The charts in Tables A and B labeled Nutritional Requirements for Infants and Children have been adapted from current recommendations of the Food and Nutrition Board, National Research Council for children with normal growth and developmental patterns. These recommendations vary for each age group.
  - 2) They are to be used as guidelines only in those cases where the physician does not prescribe a therapeutic diet. However, the diet of a resident with severe physical abnormalities and for

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Section 390.1850(b)(2) (continued)

Irregular growth and developmental patterns may require a considerable variance from the current recommended allowances. Such variance shall be permitted upon the written order of the attending physician.

- c) Meal Pattern: Foods for the day shall be planned to provide a variety of foods, variety in texture and good color balance to give "eye appeal" to the meal. One of the following meal patterns and schedules shall be used for residents' general diet. Variations from these patterns and/or schedules will require prior written approval from the Department.

1) Three Meals A Day Plan

- A) Breakfast (6:30 - 8:30 A.M.): Fruit or Juice, Cereal, Meat (optional, but three or four times per week preferable), Bread, Butter or Margarine, Milk, and Choice of additional Beverage.
- B) Main Meal (11:30 A.M. - 1:30 P.M.) or (4:30 - 6:30 P.M.): Soup or Juice (optional appetizer), Entree (quality protein), Potato or potato substitute, Vegetable and/or or Salad, Dessert (preferably fruit unless fruit is served as a salad or will be served at other meal ~~Lunch or Supper~~), Bread Butter or Margarine, and Choice of Beverage.

- C) Lunch or Supper (11:30 A.M. - 1:30 P.M.) or (4:30 - 6:30 P.M.): Soup or Juice (optional), Entree (quality protein), Potato or potato substitute (optional if served at main meal), Vegetable ~~and/or~~ or Salad, Dessert, Bread, Butter or Margarine, Milk, and Choice of additional Beverage.

2) Four Meals-A-Day Plan

- A) Breakfast (6:30 - 8:30 A.M.): Juice, Cereal, Toast or Roll, Butter or Margarine, Milk, and Choice of additional Beverage.
- B) Brunch (10:30 A.M. - 12:30 P.M.): Fruit or Juice; Main Dish (quality protein); Bread, Rolls or Special Breads (such as French Toast or Pancakes); Butter or Margarine; and Choice of Beverage.
- C) Full Dinner (3:30 - 5:30 P.M.): Appetizer or Soup, Protein



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## Section 390.1850(c)(2)(C) (continued)

Entree, Potato or Potato Substitute, Vegetable, Salad, Dessert, Bread or Roll, Butter or Margarine, Milk, and Choice of additional Beverage.

- D) Light Meal (6:30 - 8:30 P.M.): Meat Group, Bread Group, Light Dessert, and Milk or Juice.

## 3) Five Meal-A-Day Plan

- A) Continental Breakfast (6:30 - 8:30 A.M.): Fruit Juice, Toast or Roll, Butter or Margarine, Milk, and Choice of additional Beverage.

- B) Brunch (9:30 - 11:30 A.M.): Fruit or Juice, Cereal, Eggs, ~~and/or~~ Meat Dish, Bread or Muffin or Special Toast, Butter or Margarine, and Beverage.

- C) Light Meal (12:30 - 2:30 P.M.): Soup with Crackers, Meat Group, Bread Group, and Milk or Beverage.

- D) Dinner (3:30 - 5:30 P.M.): Meat, Fish or Poultry, Potato or Potato Substitute, Vegetable, Salad, Bread or Roll, Butter or Margarine, Dessert, Milk, and Choice of additional Beverage.

- E) Light Meal (6:30 - 8:30 P.M.): Meat Group, Bread Group, Fruit Juice or Milk, and Dessert (such as Ice Cream, Cookies, Jello, Pudding, Custard, or Fruit).

- d) Whatever schedule is established, there shall be a time span of approximately three ~~(4)~~ hours between meals.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1860 Infant and Therapeutic Diets

- a) An infant diet is a diet whether therapeutic or general for residents under the age of ~~twelve~~ ~~(12)~~ months.

- b) A therapeutic diet is a diet that varies from the recommended nutritional requirements as specified in Section 390.1850.

- c) All diets shall be ordered by a physician and recorded in the resident's medical record and served as ordered. The resident shall

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## Section 390.1860(c) (continued)

be observed to determine acceptance of the diet and these observations shall be recorded in his record. (B-~~6~~)

- d) All diet orders (see Section 390.1840(a) and (b)) transmitted to the Food Service Department shall include, but are not limited to, the following information: name of resident, room ~~and/or~~ and bed number, type of diet, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department. ~~(C)~~

- e) All diets or dietary restrictions shall be planned or approved by a dietitian. (B-~~6~~)

- f) The kinds and variations of these prescribed therapeutic diets shall be available in the kitchen. If separate menus are not planned for each specific diet, diet information for each specific type shall be posted in the kitchen. ~~(C)~~

- g) All infant and therapeutic diets, with the exception of liquid and medical soft, shall be reviewed at least every month. Liquid therapeutic diets shall be reviewed every ~~forty-eight~~ ~~(48)~~ hours. Medical soft diets shall be reviewed every three ~~(3)~~ weeks. This review shall be done by licensed nursing personnel or a qualified dietitian with recommendations to the attending physician. (B-~~6~~)

- h) The facility shall have available and in use, two ~~(2)~~ or more copies of a current diet manual recommended by the Department. One ~~(1)~~ copy shall be located in the kitchen for use by dietary personnel; others shall be located at each nurses' station for available use by the physician when prescribing diets. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.1870 Scheduling Meals

- a) A minimum of three ~~(3)~~ meals or their equivalent shall be served daily at regular times with no more than a ~~fourteen~~ ~~(14)~~ hour span between a substantial evening meal and breakfast. (B-~~6~~)

- b) Snacks of nourishing quality shall be offered between meals when there is a time span of four ~~(4)~~ or more hours between the ending of one meal and the serving of the next. (B) Snacks of nourishing quality shall be offered at bedtime when there is a time span of two

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## Section 390.1870(b) (continued)

~~(2)~~ or more hours between the ending of the last meal and bedtime. (B-~~6~~)

- c) If a resident refuses food served, reasonable and nutritionally appropriate substitutions shall be served. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.1880 Menu Planning

- a) Menus, including menus for snacks and "sack" lunches, if required, shall be planned at least one ~~(1)~~ week in advance. Food sufficient to meet the nutritional needs of all the residents shall be prepared for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value and shall be recorded on the original menu, or in a notebook marked "Substitutions" that is kept in the kitchen. If a notebook is used to document substitutions, it shall include the date of the substitution ~~(6)~~; the meal at which the substitution ~~(6)~~ was ~~(made)~~ made; the menu as originally written; and the menu as actually served. (B-~~6~~)

- b) The menu for the current week shall be dated and posted. Upon the request of the Department, sample menus shall be submitted for evaluation. ~~(6)~~

- c) Menus shall be different for the same day of consecutive weeks. ~~(6)~~

- d) All menus as actually served shall be kept on file for not less than ~~(30)~~ ~~(30)~~ days. ~~(6)~~

- e) Supplies of staple food for a minimum of a one ~~(1)~~ week period and of perishable foods for a minimum of a two ~~(2)~~ day period shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu. ~~(6)~~

- f) Records of all food purchased shall be kept on file for not less than ~~(30)~~ ~~(30)~~ days. ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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## Section 390.1890 Food Preparation and Service

- a) Food shall be prepared by appropriate methods that will conserve their nutritive value, enhance their flavor and appearance. They shall be prepared according to standardized recipes and a file of such recipes shall be available for the cook's use. ~~(6)~~

- b) Foods shall be attractively served at the proper temperatures and in a form to meet individual needs. Foods shall not be mixed for feeding so that residents may develop individual tastes. All solids shall be spoonfed. (B-~~6~~)

- c) All residents shall be served in a dining room or multipurpose room in an upright position unless contraindicated by resident's condition. All infants shall be held for each feeding. (B-~~6~~)

- d) The method of feeding shall encourage, in each resident, the acquisition of developmentally sequential feeding skills. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.1900 Preparation of Infant Formula

- a) Formula may be prepared by either the facility or by approved outside resources. Approved outside resources are:

- 1) Those infant formula services which are approved to prepare infant formula for sale or distribution by the health department of the state in which the plant is located if the formula is sold interstate; or

- 2) If sold only in Illinois, the infant formula service is approved by a local, full-time health department under an ordinance dealing specifically with infant formula preparation to prepare infant formula for sale or distribution.

- b) Facilities electing to utilize approved outside sources, must develop procedures to provide for aseptic preparation of formulas during emergency periods. (B-~~6~~)

- c) All facilities which prepare their own formula shall provide suitable facilities and equipment for the preparation of milk or milk substitute feedings and water for infants. (B-~~6~~)

- d) Formula preparation facilities must be in a medically clean area. Acceptable locations include a "special" formula room and the dietary



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## Section 390.1900(d) (continued)

department. Other areas may be used if isolated from any source of contamination. (B-~~7~~-~~6~~-)

e) If the kitchen is used, formulas must be prepared in such a way that food preparation and serving activities do not interfere. (B-~~7~~-~~6~~-)

f) There shall be suitable equipment for cleaning and sterilizing formula bottles, nipples, and utensils for cleaning formula bottles, nipples, and utensils for the preparation of formula. Preparation of formulas must be physically or functionally separated from the cleaning of equipment. (B-~~7~~-~~6~~-)

g) The formulas shall be prepared by or under the supervision of a registered nurse or the Director of Food Service. (B-~~7~~-~~6~~-)

h) Personnel assigned to formula preparation duties shall not be assigned to other duties until the complete cycle (formula preparation through proper storage) has been completed. Personnel not assigned to formula preparation shall be excluded from the immediate preparation area during the period of time formulas are being prepared, bottled, and capped. (B-~~7~~-~~6~~-)

i) In the cleanup process, all bottles, caps and nipples shall be thoroughly washed with a bottle brush or mechanical washing unit. Nipples should be inverted in the cleaning process and rinsed in running water, then boiled for five ~~45~~ minutes. (B-~~7~~-~~6~~-)

j) A ~~twenty-four~~ ~~24~~ hour supply of formula shall be prepared at one time and the formula not used within ~~twenty-four~~ ~~24~~ hours after preparation shall be discarded. Formula shall be poured into individual bottles, nipples, and properly covered at the time of preparation. (B-~~7~~-~~6~~-)

k) Bottles and nipples must be washed and sterilized before being returned to the formula preparation room or area. (B-~~7~~-~~6~~-)

l) Formulas shall be prepared according to one of three ~~43~~ techniques: Terminal Heating Methods, Standard Clean Technique Method, or Aseptic Sterilization. (B-~~7~~-~~6~~-)

m) Adequate refrigeration facilities must be provided for storing formulas. Formulas shall be stored at a temperature of 40°F. (B-~~7~~-~~6~~-)

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## Section 390.1900 (continued)

n) Periodic bacteriological examination of formula is recommended. (B-~~7~~-~~6~~-)

(Source: Amended at 13 Ill. Reg. ~~7~~, effective ~~7~~)

## Section 390.1910 Food Handling Sanitation

Every facility shall comply with the Department's rules entitled "Food Service Sanitation" ~~rules~~ (77 Ill. Adm. Code 750) ~~as amended~~.

(Source: Amended at 13 Ill. Reg. ~~7~~, effective ~~7~~)

## Section 390.1920 Kitchen Equipment, Utensils, and Supplies

The kitchen or dietary area shall be adequate to meet the food service needs. It shall have adequate equipment, utensils, and supplies to properly store, prepare, and serve the required number of meals in accordance with the Department's rules entitled "Food Service Sanitation" ~~rules~~ (77 Ill. Adm. Code 750) ~~as amended~~. This shall include at a minimum the following: (B-~~7~~-~~6~~-)

a) Each kitchen and floor pantry, or sub-kitchen, in each building shall be adequately equipped with steam jacketed kettles (in large facilities), stoves, work tables, refrigerators, ovens, and cabinets ~~etc.~~. New or replacement equipment shall be of satisfactory institutional type based on generally accepted standards. (B-~~7~~-~~6~~-)

b) There shall be an adequate supply of food preparation equipment such as pots, pans, spoons, knives, and mixers ~~etc.~~ of the proper type to satisfactorily prepare the meals. (B-~~7~~-~~6~~-)

c) There shall be proper equipment for keeping hot food hot and cold foods cold until served to the residents. This equipment may be in the form of heated food carts, insulated food containers, or suitable equivalent. (B-~~7~~-~~6~~-)

d) Each facility shall provide an adequate number of dishes, glassware, and silverware of a satisfactory type to serve all the residents in the facility at each meal. (B-~~7~~-~~6~~-)

e) Each facility shall provide a sufficient supply of adaptive food

## Section 390.1920(e) (continued)

service equipment necessary to meet the need of each resident. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

## Section 390.2010 Maintenance

Every facility shall have an effective written plan for maintenance, including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: ~~(B-1-C)~~

- a) Maintain the building in good repair and free of the following: cracks in floors, walls, or ceilings; peeling wallpaper or paint; warped or loose boards; warped, broken, loose, or cracked floor covering, such as tile or linoleum; loose handrails or railings; loose or broken panes; and any other similar hazards. ~~(B-1-C)~~
- b) Maintain all electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems in safe, clean and functioning condition. This shall include regular inspections of these systems. ~~(A, B-1-C)~~
- c) Maintain all electrical cords and appliances in a safe and functioning condition. ~~(B-1-C)~~
- d) Maintain the interior and exterior finishes of the building as needed to keep it attractive, clean and safe (painting, washing, etc.--). ~~(C)~~
- e) Maintain all furniture and furnishings in a clean, attractive, and safely repaired condition. ~~(C)~~
- f) Maintain the grounds and other buildings on the grounds in a safe, sanitary and presentable condition. ~~(B-1-C)~~
- g) Maintain the grounds free from refuse, litter, insect and rodent breeding areas. ~~(C)~~
- h) The building and grounds shall be kept free of any possible infestations of insects and rodents by eliminating sites of breeding and harborage inside and outside the building; eliminating sites of entry into the building with screens of not less than ~~sixteen~~

## Section 390.2010(h) (continued)

~~(16-)~~ mesh to the inch and repair of any breaks in construction. ~~(B-1-C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2020 Housekeeping

- a) Every facility shall have an effective plan for housekeeping including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: ~~(B-1-C)~~
    - 1) Keep the building in a clean, safe, and orderly condition. This includes all rooms, corridors, attics, basements, and storage areas. ~~(B-1-C)~~
    - 2) Keep floors clean and as nonslip as possible, and free from tripping hazards. Throw rugs ~~and/or~~ and scatter rugs with nonslip type backings may be utilized if they do not constitute a serious tripping hazard. ~~(C)~~
    - 3) Control odors within the housekeeping staff's areas of responsibility by effective cleaning procedures and by the proper use of ventilation systems. Deodorants shall not be used to cover up persistent odors caused by unsanitary conditions or poor housekeeping practices. ~~(C)~~
    - b) Attics, basements, stairways, and similar areas shall be kept free of accumulations of refuse, discarded furniture, old newspapers, boxes, discarded equipment, and other items. ~~(B-1-C)~~
    - c) Bathtubs, shower stalls, ~~and/or~~ and lavatories shall not be used for laundering, janitorial, or storage purposes. ~~(C)~~
    - d) All cleaning compounds, insecticides, and all other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms. ~~(B-1-C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2030 Laundry Services

- a) Every facility shall have an effective means of supplying an adequate amount of clean linen for operation, either through an in-house



## Section 390.2030(a) (continued)

laundry or a contract with an outside service.

- 1) An adequate supply of clean linen shall be defined as the three ~~sets of sheets, draw sheets, and pillow cases, etc.,~~ required to provide for the residents' needs. Additional changes of linen may be required in consideration of the time involved for laundering and transporting soiled linens. ~~(C)~~
- 2) If an in-house laundry service is provided, then the following conditions shall exist:
  - A) The laundry area shall be maintained and operated in a clean, safe and sanitary manner. ~~(C)~~
  - B) Written operating procedures shall be developed, posted and implemented which provide for the handling, transport and storage of clean and soiled linens. ~~(C)~~
  - C) Laundry personnel must be in good health and practice good personal grooming. Employees must thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean and after smoking, eating, drinking, using the toilet and handling soiled linens. ~~(C)~~
  - D) Clean linen shall be protected from contamination during handling, transport and storage. ~~(C)~~
  - E) Soiled linen shall be handled, transported and stored in a manner that protects facility residents and personnel. ~~(C)~~
  - F) The laundry and its accessory storage and handling areas shall not be used as a storage area for supplies not directly connected with the operation of the laundry. ~~(C)~~
- b) If an outside laundry service is used, it shall comply with the requirements of in-house laundries and, in addition, shall provide for protection of clean linens during transport back to the facility. ~~(C)~~
- c) If the facility provides laundry service for resident's personal clothing, it must be handled, transported and stored in a manner that

## Section 390.2030(c) (continued)

will not allow contamination of clean linen or allow contamination by soiled linen. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

## Section 390.2210 Furnishings

- a) There shall be safely constructed individual bassinets, cribs, or beds in each bedroom. These shall not be painted with a paint containing lead. Beds or cribs with spokes shall have only narrow openings between the spokes. Each bed shall be of adequate size to accommodate the resident. ~~(C)~~
- b) Each bed shall be provided with satisfactory type springs in good repair and a clean, firm, comfortable mattress of appropriate size for the bed. ~~(C)~~
- c) Each bedroom exterior window shall have a device to insure privacy and light control. ~~(C)~~
- d) A satisfactory reading lamp, or equivalent, shall be provided for each bed unless contraindicated. ~~(C)~~
- e) Each bed shall be provided with a minimum of one ~~(C)~~ clean, comfortable pillow unless contraindicated. ~~(C)~~ There shall be additional pillows available in the facility to satisfactorily serve the needs of the residents ~~residents~~. ~~(C)~~
- f) Each lavatory and each bedroom or adjoining bathroom shall be provided with a mirror when appropriate. ~~(C)~~
- g) Each resident area shall be provided with appropriate furnishings and equipment to meet resident needs. These furnishings shall be well constructed, and of satisfactory design, and be appropriate for the residents. ~~(C)~~
- h) Office spaces, nurses' stations, treatment rooms, and other areas shall be satisfactorily furnished with desks, chairs, lamps, cabinets, benches, work tables, ~~and/or~~ and other furnishings essential to the proper use of the area. ~~(C)~~
- i) Each resident shall be provided with an adequate amount of storage

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## Section 390.2210(1) (continued)

space within the resident's bedroom for personal items and clothing. This space shall be easily accessible to the residents when appropriate. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2220 Equipment and Supplies

a) The facility shall provide adequate equipment and supplies including at a minimum the following:

- 1) An adequate supply of nursing equipment such as individual thermometers, catheters, dressings, scales, hypodermic needles, syringes, and other equipment for giving medicines ~~etc.~~ based on the needs of the residents in the facility. ~~(C)~~
- 2) At least one ~~(1)~~ properly operating suction machine and one ~~(1)~~ emergency type oxygen apparatus on each floor or section of the building housing residents. ~~(B)(C)~~
- 3) A sufficient quantity of linen such as sheets, diapers, blankets, towels, wash cloths, and plastic sheeting ~~etc.~~ to provide each resident with a daily individual supply. ~~(C)~~
- 4) At least one ~~(1)~~ bedside screen available in the facility for each ~~fifty~~ ~~(50)~~ beds or major fraction thereof, unless cubicle curtains are provided to provide residents' privacy when needed. ~~(C)~~
- 5) An emergency first-aid kit or emergency box containing bandages, sterile gauze dressing, bandage scissors, tape, sling, burn ointment, airways, tourniquet, sterile suture set, antiseptic skin cleaner and other equipment deemed necessary by the advisory physician or the medical advisory committee. ~~(B)(C)~~
- 6) Proper clothing to assure cleanliness and warmth for each resident. ~~(B)(C)~~
- 7) A sufficient number of play pens provided for residents under one ~~(1)~~ year of age and in addition for those over one ~~(1)~~ year of age, if needed for proper care. These shall be safe for use. ~~(B)(C)~~
- 8) Washable toys and other developmental toys and equipment

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## Section 390.2220(a)(8) (continued)

provided. These shall be of safe and sanitary design. ~~(C)~~

9) Cleaning equipment and supplies shall be provided as set forth in Subpart J (Maintenance, Housekeeping and Laundry). ~~(C)~~

10) All supplies and special equipment including implements or utensils needed for residents. ~~(C)~~

b) The facility shall initiate the procedures and assist the resident in obtaining special equipment designed for an individual resident's exclusive use. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2230 Sterilization of Supplies and Equipment

a) Every facility shall have and follow an acceptable plan to provide for sterile equipment and supplies, such as needles, syringes, catheters, and dressings. There shall be an autoclave available for sterilizing this type of equipment and supplies. The autoclave should be located in a central sterilization area, clean utility area, or nurses' station. An autoclave will not be required in a facility when other acceptable arrangements have been made, such as: ~~(A, B)(C)~~

- 1) Use of individually wrapped sterile dressings, disposable syringes, needles, catheters, and gloves ~~etc.~~
- 2) Formal plan with another facility for the autoclaving of equipment and supplies.
- 3) Other alternative methods when approved on an individual basis in writing from the Department based on a written request from the facility giving in detail the method proposed to be used and which method meets acceptable criteria for proper sterilization for these items to be sterilized.
- b) Every facility shall sanitize bed pans, urinals, wash basins, emesis basins, enema equipment, and similar patient ~~type nursing~~ care utensils as follows:
  - 1) Individual bed pans, urinals, wash basins, and similar equipment shall be washed and rinsed after each use, and be sanitized at least weekly ~~periodically while the patient is in the~~



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## Section 390.2230(b)(1) (continued)

~~facility.~~ If individual equipment is not provided, the equipment shall be washed, rinsed, and sanitized after each use. (B)

2) Utensils shall be pre-flushed prior to washing. Utensils shall be washed in a hot detergent solution that is maintained clean. After washing, utensils shall be rinsed free of detergents with clean water.

3) Utensils shall be sanitized, either mechanically or manually, through the use of steam, hot water, or chemicals approved by the U.S. Environmental Protection Agency and formulated for the sanitization of patient care utensils. Chemical sanitizers shall be used in accordance with label instructions ~~in a utensil sanitizer.~~

4) Patient care utensil sanitization shall be completed ~~the~~ procedure shall be done in the ~~a~~ soiled utility room. (B)

~~3) Sanitization may be approved other than in a utensil sterilizer. Such approval shall be on an individual basis in writing from the Department based on a written request from the facility giving in detail the method proposed to be used and which method meets equivalent criteria for proper sanitization of the items to be sanitized.~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

## Section 390.2410 Codes

Water supply, sewage disposal, and plumbing systems shall comply with all applicable State and local codes and ordinances. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2420 Water Supply

a) Each facility shall be served by water from a municipal public water supply when available. (B-~~G~~)

b) When a municipal public water supply is not available, the water

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## Section 390.2420(b) (continued)

supply shall comply with the Department's rules for entitled "Drinking Water Systems" (77 Ill. Adm. Code 900) ~~as amended~~ (B-~~G~~)

c) If water is supplied by a well that is not part of a municipal system, the well shall be constructed and maintained in accordance with the Department's rules entitled "Illinois Water Well Construction Code" (77 Ill. Adm. Code 920) and "Illinois Water Well Pump Installation Code" (77 Ill. Adm. Code 925).

d) Each facility shall have a written agreement with a water company, dairy, or other water purveyor to provide an emergency supply of potable water for drinking and culinary purposes.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2430 Sewage Disposal

a) All sewage and liquid wastes shall be discharged into a public sewage system when available. (B-~~G~~)

b) When a public sewage system is not available, sewage and liquid wastes shall be collected, treated, and disposed of in a private sewage disposal system. The design, construction, maintenance, and operation of the system shall comply with the "Private Sewage Disposal Licensing Act" (Ill. Rev. Stat. ~~1981~~ 1987, ch. 111 1/2, pars. 116.301 et seq.) and the "Private Sewage Disposal Code" (77 Ill. Adm. Code 905)," as amended. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2440 Plumbing

Each plumbing system shall comply with the "Illinois Plumbing Code" and the rules promulgated thereunder (77 Ill. Adm. Code 890) effective at the time of construction ~~and for~~ and approved acceptance by the Department. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

## Section 390.2610 Applicability of these Standards

- a) These standards shall apply to all new Long-Term Care Facilities and major alterations and additions to existing Long-Term Care Facilities. (Major alterations are those that are not defined as minor alterations in subsection (f) of this Section ~~below herein~~.) Long-Term Care Facilities contemplating construction shall contact the Health Facilities Planning Board for information concerning the current requirements. Projects for which working drawings and specifications have received final approval by the Department prior to the promulgation of these Standards will only be required to meet those Standards that were in effect at the time that the final approval was given.

- b) When construction is contemplated, either for new buildings or additions or major alterations to existing buildings coming within the scope of these standards, design development drawings and outline specifications shall be submitted to the Department for review. Approval of design development drawings and specifications shall be obtained from the Department prior to starting final working drawings and specifications. Such approval will be based upon compliance with Section 390.2630 of this Subpart. Comments or approval will be provided within ~~thirty~~ 30 days of receipt by the Department.
- c) The final working drawings and specifications shall be submitted to the Department for review and approval prior to beginning of construction. For final approval to remain valid, contracts must be signed within one ~~(1)~~ year of the date of final approval. Alternate methods of design development and construction such as fast track shall be acceptable consistent with the Department's policy. Comments of approval will be provided within ~~thirty~~ 30 days of receipt by the Department.

- d) Any contract modifications which affect or change the function, design, or purpose of a facility shall be submitted to the Department for approval prior to authorizing the modifications. Such approval will be based upon compliance with the requirements in this Subpart. Comments or approval will be provided within ~~thirty~~ 30 days of receipt by the Department.

- e) The Department shall be notified at least ~~thirty~~ 30 days before construction has been completed. The Department will then complete a final inspection. Deficiencies noted during the final inspection must be completed before occupancy will be permitted if required by the Department. ~~(G)~~

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## Section 390.2610 (continued)

- f) Minor alterations or remodeling changes which do not affect the structural integrity of the building, which do not change functional operation, which do not affect fire safety, and which do not add beds or facilities over those for which the Long-Term Care Facility is licensed need not be submitted for drawing approval. However, the Health Facilities Planning Board requirements must be met for all alterations and remodeling projects.
- g) No system of water supply, plumbing, sewage, garbage or refuse disposal shall be installed, nor any such existing system materially altered or extended until complete plans and specifications for the installation, alteration or extension have been submitted to the Department and have been reviewed and approved. Such approval will be based upon compliance with Subpart L and this Subpart.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2620 Codes and Standards

- a) Each facility shall comply with the applicable provisions of the following codes and standards. Any incorporation by reference in this Section of the rules or regulations of any Agency of the United States or of any standards of a nationally recognized organization or association includes no new amendments or editions made after the date specified. (A, B, ~~C~~)

- 1) State of Illinois Rules ~~Codes and Standards~~

~~Code of Standards~~ Agency

- A) Illinois ~~Ill.~~ Plumbing Code ~~(1983)~~ (77 Ill. Adm. Code 890) ~~Department of Public Health Environmental Health Protection~~

- B) Illinois Accessibility Code ~~Standards Illustrated~~ ~~(as amended March 1981)~~ (71 Ill. Adm. Code 400) ~~Capital Development Board~~

- C) Fire Prevention and Safety ~~1983~~ (41 Ill. Adm. Code 100) ~~Office of the State Fire Marshal~~

- D) Food Service Sanitation ~~(1983)~~ (77 Ill. Adm. Code 750) ~~Department of Public Health Environmental Health Protection~~



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## Section 390.2620(a)(1) (continued)

- E) ~~Boiler and Pressure Vessel Safety Act (Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 3201 et seq.) and Boiler and Pressure Vessel Safety Rules and Regulations (1984)~~ (41 Ill. Adm. Code 120), Office of the State Fire Marshal
- ~~F) Safety Glazing Materials Act (Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 3101 et seq.), 1979~~
- 2) Other Codes and References
- ~~Codes or Standards~~      ~~Agency~~
- A) National Fire Protection Association ~~National Fire Protection Association~~
- i) NFPA 101 Life Safety Code 1981 Edition (New Health Care Occupancies) and all appropriate references under Appendix B, including but not limited to:
- ii) NFPA 10 - 1978, Standard for Portable Extinguishers
- iii) NFPA 13 - 1980, Standards for the Installation of Sprinkler Systems
- iv) NFPA 56F - 1977, Standard for Non-Flammable Medical Gas Systems
- v) NFPA 70- 1981, National Electric Code
- vi) NFPA 90A - 1978, Standard for the Installation of Air Conditioning and Ventilating Systems
- vii) NFPA 96- 1980, Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment
- viii) NFPA 220 - 1979, Standard Types of Building Construction
- ix) NFPA 253 - 1978, Flooring Radiant Heat Energy Test
- x) NFPA 255 - 1972, Test of Surface Burning Characteristics of Building Materials

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## Section 390.2620(a)(2) (continued)

- B) Underwriters' Laboratory, Inc. (UL) ~~Underwriters' Laboratories, Inc.~~
- i) Fire Resistance Index (date) (All Editions)
- ii) Building Material Directory (All Editions)
- iii) Standard No. - 181 - 1974 Factory Made Air Duct Materials and Air Duct Connectors
- C) American Society for Testing and Materials (ASTM) ~~American Society for Testing and Materials~~
- i) Standard No. E-84-1977A; Method of Test for Surface Burning Characteristics of Building Materials (Same as NFPA 255)
- ii) Standard No. E90-1975, Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions
- D) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) ~~American Society of Heating, Refrigerating, and Air Conditioning~~
- i) Handbook of Fundamentals, 1977
- ii) Standard No. 52-76 Methods of Testing Air Cleaning Devices Used in General Ventilation for Removing Particulate Matters
- E) Uniform Building Code (1982 Edition), International Conference of Building Officials
- F) Standard No. A17.1-1971, American Standards Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, American National Standards Institute
- G) Standard No. A17.1-1971, American National Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Stairs, American National Standards Institute
- H) Pamphlet P-2.1-1967 Standard for Medical-Surgical Vacuum Systems in Hospitals, Compressed Gas Association

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## Section 390.2620(a)(2) (continued)

- ~~1) Public Health Service— Superintendent of Documents—  
Publication No. 934 Food U.S. Government Printing  
Service Manual Sanitation Office~~
- 1) ~~1)~~ HUD FT/TS-24 A Guide to Air Borne, Impact and Structure Borne Noise-Control in Multi-Family Dwellings, Superintendent of Documents, U.S. Government Printing Office
- b) In addition to compliance with the requirements ~~Standards~~ set forth in this Section ~~herein~~, all building codes, ordinances and regulations which are enforced by city ~~City~~, county ~~County~~ or other local jurisdictions in which the facility is, or will be, located must be observed. (A, B, ~~C~~)
- c) Where no local building code exists, the recommendations of the 1976 Edition of the Uniform Building Code shall apply. ~~(C)~~
- d) The local building code or the recommendations of the 1982 Edition of the Uniform Building Code shall apply insofar as such recommendations are not in conflict with the requirements ~~these standards~~ set forth in this Part, or with the National Fire Protection Association Code 101, Life Safety Code, 1981. ~~(C)~~
- e) The Fire Safety Evaluation System for Health Occupancies (Appendix C) of the 1981 edition of the Life Safety Code (NFPA 101) shall be used by the Department in determining whether any facility's proposed equivalent system is safe and does not constitute a hazard to the life and safety of the staff and residents. In making its determination regarding the proposed equivalent system, the Department shall consider those factors listed in Appendix C.
- f) Pursuant to the Medicare/Medicaid certification requirements of 42 CFR 405.1134(a) (1983) and 42 CFR 442.321(c) (1983), any skilled nursing facility that on December 4, 1980, or on November 26, 1982, or any intermediate care facility that on November 26, 1982, complied with the requirements of the 1967 or 1973 edition of the Life Safety Code will be considered to be in compliance with Section 390.2620(a)(2)(A)(1), as long as the facility continues to remain in compliance with that edition of the Code.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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## Section 390.2630 Preparation of Drawings and Specifications

- a) The preparation of drawings and specifications shall be executed by or be under the immediate supervision of an architect registered in the State of Illinois: ~~(C)~~
- b) The first submission shall be the design development drawings indicating in detail the assignment of all spaces, size or areas and rooms, and indicating in outline, the fixed and movable equipment and furniture, and the outline specifications.
- c) The plans shall be drawn at a scale sufficiently large to clearly present the proposed design.
- d) The drawings shall include:
- 1) a plan of each floor including the basement or ground floor,
  - 2) roof plan,
  - 3) plot plan showing roads, parking areas, sidewalks, ~~etc.~~ and other areas,
  - 4) elevations of all facades,
  - 5) sections through the building,
  - 6) identification of all fire and smoke compartmentation.
- e) Outline specifications shall provide a general description of the construction including finishes; acoustical material, floor covering; heating and ventilating systems; description of the electrical system including the emergency electrical system and the type of elevators.
- f) The total gross floor area and bed count shall be shown on the drawings.
- g) A brief narrative of the proposed program shall be submitted with the preliminary drawings and outline specifications.
- h) Following approval of the design development drawings and the outline specifications, working drawings and specifications shall be submitted. All working drawings shall be well prepared and clean and distinct prints shall be submitted. Drawings shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. Working drawings shall be complete and adequate for construction purposes. Drawings shall be prepared for each of the



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## Section 390.2630(h) (continued)

following branches of work: Architectural, Structural, Mechanical, Electrical and Plumbing.

## 1) The architectural drawings shall show:

- A) Site plan showing all topography, newly established levels and grades, existing structures on the site (if any), new buildings and structures, roadways, walks, and the extent of the areas to be landscaped. All structures which are to be removed under the construction contract shall be shown.

B) Plan of each floor and roof. ~~-(G)-~~C) Elevation of each facade. ~~-(G)-~~D) Sections through building. ~~-(G)-~~

- E) Elevators and dumbwaiters drawings delineating shaft details and dimensions, sizes of cab platforms and doors, travel distances including elevation height of landings, pit sizes, and machine rooms. ~~-(G)-~~

- F) Kitchen, laundry, clean and soiled utility room, special care areas, and similar areas detailed at a scale to show the locations, type, size and connection of all fixed and movable equipment.

- G) Scale details as necessary at a scale sufficiently large to properly indicate details of the work.

## H) Schedule of finishes.

## 2) The structural drawings shall show:

- A) Plans of foundations, floors, roofs and all intermediate levels shall show the complete design with sizes, sections, and the relative location of the various members including:

- B) Schedule of beams, girders and columns.

- C) Notes on design data including the name of the governing building code, values of allowable unit stresses, assumed live loads, wind loads, earthquake load, and soil bearing pressures.

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## Section 390.2630(h)(2) (continued)

- D) Details of special connections, openings, pipe sleeves and expansion joints.

- E) Special structures shall include calculations defining load assumption, shear and moment diagrams and horizontal and vertical reactions.

- 3) Mechanical drawings with specifications shall show the complete heating, cooling and ventilation systems; plumbing, drainage, stand pipe, and sprinkler systems.

## A) Heating, Cooling and Ventilation.

- i) Pumps, tanks, boilers and piping and boiler room accessories.

- ii) Air conditioning systems with required equipment, water and refrigerant piping, and ducts.

- iii) Supply and exhaust ventilating systems with connections and piping.

- iv) Air quantities for all rooms including supply and exhaust ventilating duct openings.

## B) Plumbing, Drainage and Stand Pipe Systems.

- i) Size and elevation of: street sewer, house sewer, house drains, street water main and water service into the building.

- ii) Location and size of soil, waste, and vent stacks with connections to house drains, cleanouts, fixtures and equipment.

- iii) Size and location of hot, cold and circulating mains, branches, and risers from the service entrance, and tanks.

- iv) Riser diagram of all plumbing stacks with vents, water risers and fixture connections.

- v) Gas, oxygen and similar piped systems.

- vi) Stand pipe and sprinkler systems.

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## Section 390.2630(h)(3)(B) (continued)

- vii) All fixtures and equipment that require water and drain connections.
- 4) Electrical drawings shall show all electrical wiring, outlets, and equipment which require electrical connections.
  - A) Electrical service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections.
  - B) Location of main switchboard, power panels, light panels and equipment. Feeder and conduit sizes shall be shown with schedule of feeder breakers or switches.
  - C) Light outlets, receptacles, switches, power outlets, and circuits.
  - D) Telephone layout showing service entrance, telephone switchboard, strip boxes, telephone outlets and branch conduits as approved by the telephone company. Where public telephones are used for inter-communication, provide separate room and conduits for racks and automatic switching equipment as required by the telephone company.
  - E) Nurses' call systems with outlets for beds and cribs, duty stations, corridor signal lights, annunciators and wiring diagrams.
  - F) Fire alarm system with stations, signal devices, control board and wiring diagrams.
  - G) Emergency electrical system with outlets, transfer switch, source of supply, feeders, and circuits.
  - H) All other electrically operated systems and equipment.
- 5) When the project is an addition, details and information on the existing building shall be provided as follows:
  - A) Type of activities within the existing building and distribution of existing beds ~~etc.~~
  - B) Type of construction of existing building and number of stories in height.

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## Section 390.2630(h)(5) (continued)

- C) Plans and details showing attachment of new construction to the existing structure.
- D) Mechanical, Electrical and Plumbing systems showing connections to the existing system.
- E) The Department may require submission of drawings of all or any part of the existing structure, depending upon the extent of the modification.
- 6) Specifications shall supplement the drawings and shall: Describe, except where fully indicated and described on the drawings, the materials, workmanship, kind, sizes, capacities, finishes, and other characteristics of all materials, products, articles and devices.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2640 Site

- a) The facility shall be located on a reasonably flat or rolling, well drained site that is not subject to flooding; reasonably free from sources of excessive noise, noxious or hazardous smoke or fumes; not in deteriorated, unpleasant, or potentially hazardous area; and not near uncontrolled sources of insect and rodent breeding. ~~etc.~~
- b) The facility shall be located so that the building or buildings can comply with all applicable local zoning ordinances, building restrictions and fire safety requirements. The Department may have additional requirements if the proposed locations of the building or buildings on the site would result in a hazard to or be detrimental to the health, welfare, or safety of the residents in the facility. These additional requirements shall include, but are not limited to, fences, stairs, and other types of barriers to prevent injury to residents. ~~etc.~~
- c) The facility shall be located in or near a community which can provide the necessary supportive services for the facility such as physician's services, social services, transportation, recreation, religious services, work, medical facilities, public utilities, or other acceptable substitutes; and be located on a well-maintained, all-weather road. In those instances where the community does not provide these services, the facility shall do so.



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## Section 390.2640 (continued)

- d) The facility shall be served by a potable water supply with water pressure and volume that is acceptable to the Department. (B-~~6~~-)
- e) The distance from the fire station, the accessibility of the facility, and capability of the fire department must be approved in writing by the Office of the State Fire Marshal. (B-~~6~~-)
- f) The facility shall have at least one ~~(1)~~ municipal or private fire hydrant, located within ~~three hundred (300)~~ feet of every point on the perimeter of the building and satisfactory for use by the equipment of the fire department serving the building, or have an acceptable equivalent. Additional hydrants may be required if needed to properly protect the residents from fire hazards. Evaluation and written approval must be obtained from the Office of the State Fire Marshal. (B-~~6~~-)
- g) Plans showing the proposed building location must be submitted to the Illinois Department of Transportation, Division of Water Resources to determine compliance with the "Regulation of Construction within Flood Plains" (92 Ill. Adm. Code 706) and Executive Order 79-4. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2650 Administration and Public Areas

- a) Facilities for the physically handicapped (public, staff and residents) shall be provided in administration and public areas as well as in resident areas. ~~(G)~~
- b) Lobby shall include a reception and information counter or desk, waiting space ~~(s)~~, and public telephones. See Illinois Plumbing Code for drinking fountains ~~(s)~~ and toilet facilities requirements for staff and visitors. ~~(G)~~
- c) General or Individual Office ~~(s)~~ shall have sufficient space to accommodate the following functions: Administrative, Business/Financial Transactions, Professional Staff (Director of Nursing, Food Service Supervisor, Activity Director, Social Service Director, etc.), and Professional Consultants (Medical Director, Pharmacist, Dietitian, and Social Worker ~~, etc.~~). ~~(G)~~
- d) Multipurpose room ~~(s)~~ shall be provided for conferences, meetings, interviews, and educational purposes. ~~(G)~~

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## Section 390.2650(b) (continued)

- e) Provide adequate space for recording, reviewing and storing resident records. ~~(G)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2660 Nursing Unit

- a) The number of resident beds, cribs or bassinets in a nursing unit shall not exceed ~~seventy-five (75)~~. ~~(G)~~
- b) General Requirements for Bedrooms
  - 1) Resident bedrooms shall have an entrance directly off a corridor with an entrance door which swings into the room. ~~(G)~~
  - 2) Provide a closet or wardrobe of at least four ~~(4)~~ square feet for each resident. ~~(G)~~
  - 3) Resident bedroom floors shall be at or above grade level. ~~(G)~~
  - 4) Each room used as a resident bedroom shall have at least one ~~(1)~~ outside window, with a total window area equal to one-tenth ~~(1/10)~~ the floor area of the room. ~~(G)~~
  - 5) There shall be separate bedrooms for males and females over six ~~(6)~~ years of age unless the interdisciplinary team determines that separation is not necessary due to the functional level of individual residents. ~~(G)~~
  - 6) A handwashing lavatory shall be provided in each bedroom.
  - 7) Resident bedrooms shall have adequate and satisfactory artificial light and be equipped in accordance with Section 390.2740(d)(2). ~~(G)~~
  - 8) Receptacles shall be provided in accordance with Section 390.2740(e). ~~(G)~~
  - 9) Nurses' call system shall be provided in accordance with Section 390.2740(g). ~~(G)~~
  - 10) Visual privacy shall be provided for each resident in multibed rooms in accordance with Section 390.2220(a)(4). Location of screen or curtain shall not restrict resident access to

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## Section 390.2660(b)(10) (continued)

bathing/toilet or lavatory. ~~(C)~~

- 11) Residents shall have access to a bathing/toilet room without entering the general corridor area. ~~(C)~~

- 12) No resident bedroom shall be located more than ~~one hundred twenty (120)~~ feet from the nurses' station, clean utility room, and soiled utility room. ~~(C)~~

- 13) Vision panels shall be provided in corridor walls or room doors of each bedroom.

## c) Resident Bedrooms

- 1) Each single bedroom used for a resident shall have at least ~~one hundred (100)~~ square feet of usable net floor area, not including any space taken up for closets, wardrobes, bathrooms, and clearly definable entryway areas. ~~(C)~~

- 2) Each multiple bedroom for residents shall have the following floor areas, exclusive of closets, wardrobes, bathrooms, and clearly defined entryways:

- A) Not less than ~~Eighty (80)~~ square feet per bed.  
Size: 38" x 75"-84". No more than 4 beds per room.
- B) Not less than ~~Seventy (70)~~ square feet per small bed.  
Size: 37" to less than 38" x 61" to less than 75".  
No more than 4 beds per room.
- C) Not less than ~~Sixty five (65)~~ square feet per large crib.  
Size: 30" to less than 37" x 56" to less than 61".
- D) Not less than ~~Fifty five (55)~~ square feet per medium crib.  
Size: 27" to less than 30" x 43" to less than 56".
- E) Not less than ~~Fifty (50)~~ square feet per small crib.  
Size: 19" to less than 27 x 35" to less than 43".
- F) Not less than ~~Thirty (30)~~ square feet per bassinets.  
Size: Smaller than 19" x 35". All sleeping accommodations shall be adequate in size to allow for the resident's comfort.

- 3) Multiple resident bedrooms shall not have more than four ~~(4)~~

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## Section 390.2660(c)(3) (continued)

beds of any size located not more than three ~~(3)~~ deep from the outside wall.

- 4) Any combination of beds, cribs ~~and/or~~ and bassinets (of any size) may be placed in the same bedroom when appropriate to the functional levels of the residents. However, no bedroom shall contain more beds, cribs, ~~and/or~~ and bassinets (of any size) than can be contained in ~~three hundred ninety (390)~~ square feet of floorspace, except that no more than four ~~(4)~~ beds of any size can be contained in one room and such rooms shall not contain any cribs or bassinets of any size. In addition, the number of residents in a bedroom shall not exceed eight ~~(8)~~.

- 5) Provide a minimum clearance of three ~~(3)~~ feet at the foot and one side of all sleeping accommodations. Clearance is not required when accommodation is not occupied, however, an exit path must always be maintained in accordance with the requirements of the National Fire Protection Association's Standard No. 101: Life Safety Code. ~~(C)~~

- 6) The minimum dimension of bedrooms shall be ten ~~(10)~~ feet between walls or a wall and any built-in furniture or storage space.

## d) Special Care Room

- 1) Provide one ~~(1)~~ special care room for each nursing unit, complying with bedroom requirements in subsections (b) and (c) of this Section ~~above~~.

- 2) Provide one ~~(1)~~ workroom with observation windows adjacent to special care room. Space within this room or in separate rooms shall be designed to include all or part of the following functions:

- A) Hygienic care including bathing, complying with this Section.
- B) Separated soiled area with hampers for soiled linen, diapers and disposables. Provide this area with a double compartment sink with integral drainboard and clinical rim flush sink.
- C) Separated clean area with storage cabinets work counter, refrigerator, formula storage-dispensing and clean linen storage.



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## Section 390.2660(d)(2) (continued)

- D) Gowning for staff.
- 3) When more than one resident is housed in this room, it may only be used to isolate residents with the same communicable disease.
  - 4) This room shall be located to allow direct appropriate visual supervision from the nurses' station. ~~(C)~~
  - 5) This room may be included in the authorized maximum bed capacity for the facility.
  - 6) It is permissible for the room to be occupied by residents not in need of special care, provided the resident is clearly informed and understands ~~he/she~~ they will be immediately transferred out of the room any time of day or night, whenever the room is needed to care for a resident requiring special care. ~~(C)~~

e) Nurses' Station (B-~~C~~-)

- 1) Provide a minimum of one ~~(1)~~ nursing station for each nursing unit. The station shall have direct access to a corridor, shall be located near the area it will serve, and shall be designed to provide visual control of the area. It shall be separated satisfactorily from the nurses' utility rooms.
- 2) One or more nursing units may be combined with a central nursing station if sufficient space is provided for all nursing functions.
- 3) A toilet room shall be provided near each station for nursing staff. A lounge with lockers for safekeeping of coats and personal effects shall be provided either within this space or in a convenient central location.

## f) Bathing and Toilet Rooms

- 1) The bathing/toilet room adjacent to resident room shall serve no more than two ~~(2)~~ resident rooms nor more than ~~sixteen~~ ~~(16)~~ beds, cribs or bassinets. ~~(C)~~
- 2) Fixtures shall be provided as follows:
  - A) Lavatories: One ~~(1)~~ per eight ~~(8)~~.

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## Section 390.2660(f)(2) (continued)

- B) Clinical rim flush sink ~~and/or~~ and water closet for residents capable of using them: One ~~(1)~~ per eight ~~(8)~~.
  - C) Bathing or shower fixtures: One ~~(1)~~ per ten ~~(10)~~.
  - 3) The lavatory may be omitted from the bathing/toilet room when installed in the resident room.
  - 4) Provide a minimum of one ~~(1)~~ bathtub for assisted bathing per nursing unit. There shall be a clear area at least three ~~(3)~~ feet wide on one long side. ~~(C)~~
  - 5) Provide a minimum of one ~~(1)~~ shower stall for assisted showering per nursing unit. The shower stall shall be at least four ~~(4)~~ feet square with no curb. ~~(C)~~
  - 6) Other acceptable fixtures for bathing the residents may be provided with Department approval.
  - 7) All plumbing fixtures shall be designed and installed to satisfactorily serve the residents using them. ~~(C)~~
  - 8) There shall be separate toilet and bathing areas on each floor for males and females over six ~~(6)~~ years of age unless the interdisciplinary team determines that separation is not necessary due to the functional level of individual residents.
  - 9) Provide one ~~(1)~~ wheelchair toilet room for residents residing in nursing unit. This room shall be accessible from the corridor and shall contain a water closet and lavatory. ~~(C)~~
  - 10) Wheelchair resident toilet rooms ~~(3)~~ are not required when all resident toilet rooms can accommodate wheelchair residents. ~~(C)~~
  - 11) Grouped bathing and toilet facilities shall be partitioned or curtained for privacy ~~(C)~~.
- g) Utility Rooms
- 1) Clean utility room shall have direct access to a corridor or access may be through the nurses' station entrance. This room shall contain work counters, single or double compartment sink with integral drainboard, storage cabinets, and an autoclave.

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## Section 390.2660(g)(1) (continued)

(Autoclave may be waived in lieu of other methods if sterilization is approved by Department.) ~~(C)~~

- 2) Clean linen storage room or closet within the clean utility room shall be provided. If a closed cart system is used, storage may be in an alcove. ~~(C)~~
- 3) Soiled utility room shall have direct access to a corridor. This room shall contain work counters, double compartment sink with integral drainboard, storage cabinets with shelves, a clinical rim flush sink, and sanitizer (See Section 390.2730). ~~(C)~~
- 4) The charging room for a linen chute shall be large enough to unload the collecting cart with the corridor door closed. ~~(C)~~
- h) Medicine station shall be provided for convenient and prompt ~~twenty-four (24)~~ hour distribution of medicine to residents.

- 1) The medicine preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. Provision for handwashing and medication purposes shall be provided in medication preparation room. ~~(C)~~
- 2) If medicine dispensing carts are used, a specific space shall be provided which may be located in the nurses' station or in an alcove or other space under the direct control of the nursing staff. Provision for handwashing and medication purposes shall be provided in the nurses' station. ~~(C)~~

- i) Nourishment station shall be provided with a handwashing sink and equipment including refrigerator, and storage cabinets for serving nourishment between scheduled meals. ~~(C)~~
- 1) Commercially prepared formulas can be stored and dispensed from this room or from the special care workstation.
- 2) Ice for residents' use shall be provided only by icemaker dispenser unit.
- 3) There shall be a separate room or area for bottle and nipple washing and cleaning, equipped as necessary to carry out proper technique.

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## Section 390.2660 (continued)

- j) Room for examination and treatment of residents shall be provided and shall have a minimum floor area of ~~one hundred (100)~~ square feet, excluding space for vestibule, closets and work counters (whether fixed or movable). The minimum room dimension shall be ten feet ~~(10)~~. The room shall contain a lavatory or sink equipped for handwashing; a work counter; storage facilities; and as desk, counter, or shelf space for writing. When this room is not being used for examination or treatment, it may be used for other functions (such as an office ~~etc.~~) ~~(C)~~.
- k) Equipment storage room ~~(C)~~ shall be provided for storage of equipment such as I.V. stands, inhalators, air mattresses, walkers, and wheelchairs ~~and etc.~~ ~~(C)~~.
- l) Parking space for wheelchairs shall be provided and located out of path of normal traffic. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 390.2670 Dining, Play, Activity/Program Room ~~(C)~~

## a) General

- 1) The combined area of these rooms shall not be less than ~~forty (40)~~ square feet per resident bed ~~and/or~~ or crib. ~~(C)~~
- 2) The activity/program room ~~(C)~~ may be combined with the play room ~~(C)~~ ~~and/or~~ or dining room.
- 3) Locate these rooms so that they are not an entrance vestibule from the outside.
- 4) Playing and feeding functions, if suitable and consistent with the programs, may occur in bedrooms. However, dining rooms, playrooms, and activity rooms may not be used for resident bedrooms. ~~(C)~~

## b) Dining

- 1) Provide a minimum of one ~~(1)~~ dining room with at least ten ~~(10)~~ square feet per resident bed, crib and bassinets. This area may be reduced to allow for individual feeding.
- 2) Additional space shall be provided on resident sleeping floors



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## Section 390.2670(b)(2) (continued)

for individual feeding or residents when required due to the functional level of the individual resident as determined by the interdisciplinary team.

## c) Play

1) Provide a minimum of one ~~(1)~~ furnished playroom on each floor in multiple story buildings. ~~(C)~~

2) This room shall have adequate space to permit children to run. ~~(C)~~

3) Each playroom shall have at least one ~~(1)~~ outside window with a total window area equal to one-tenth ~~(1/10)~~ the floor area of the room. ~~(C)~~

4) There shall be satisfactory outdoor play area and equipment to meet the needs of all residents who can be taken outdoors.

d) Activity/Program Provide activity/program room and educational rooms based on program requirements. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2680 Therapy and Personal Care

a) Physical and occupational therapy facilities shall be provided as may be required by Subpart E, Section 390.1060. The area necessary to provide these services may be part of the ~~forty (40)~~ square feet in Section 390.2670(a). ~~(C)~~

b) Space shall be provided with appropriate equipment for hair care and grooming needs of the residents. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2690 Service Departments

a) Dietary facilities shall comply with the standards specified in the ~~State of Illinois~~ Department's rules entitled "Food Service Sanitation" (77 Ill. Adm. Code 750) ~~and the Food Service Sanitation Manual, Public Health Service No. 934~~. Food service facilities shall be designed and equipped to meet the requirements of the

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## Section 390.2690(a) (continued)

Narrative Program. These may consist of an on-site conventional food preparing system, a convenience food service system, or an appropriate combination of the two. ~~(B)(7)(C)~~

b) The kitchen, consisting of food preparation, cooking and serving areas, shall be approximately ten ~~(10)~~ square feet per resident bed, crib or bassinets with a minimum area of at least ~~two hundred (200)~~ square feet. It shall be properly located for efficient food service, and be large enough to accommodate the equipment and personnel needed to prepare and serve the number of meals required. ~~(B)(7)(C)~~

c) The following facilities shall be provided as required to implement the type of food service selected:

1) A control station shall be provided for receiving food supplies. ~~(C)~~

2) Storage space shall be adequate to provide normal and emergency supply needs, approximately two and one half ~~(2 1/2)~~ square feet per resident bed, crib or bassinets for bulk and daily food storage, located in a room convenient to the kitchen. ~~(C)~~

3) Food Preparation Facilities. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, and individual packaged portions, or systems using contractual commissary service require space and equipment for thawing, portioning, heating, cooking, or baking. ~~(C)~~

4) Handwashing facility ~~(ies)~~ shall be located in the food preparation area. ~~(C)~~

5) Residents' meal service facilities shall be provided as required for tray assembly and distribution. ~~(C)~~

6) Mawashing space shall be located in a room or an alcove separate from food preparation and serving areas. Commercial type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting, stacking and loading soiled tableware and for transferring clean tableware to the using areas. A handwashing lavatory shall be provided. ~~(B)(7)(C)~~

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## Section 390.2690(c) (continued)

- 7) Potwashing facilities shall be located conveniently for washing and sanitizing cooking utensils. (B-~~C~~)
- 8) Storage areas shall be provided for cans, carts, and mobile tray conveyors. ~~(C)~~
- 9) Waste storage facilities shall be located in a separate room easily accessible to the outside for direct pickup or disposal. ~~(C)~~
- 10) Office ~~(s)~~ or desk spaces shall be provided for dietitians ~~(s)~~ ~~and/or~~ and the dietary service manager. ~~(C)~~
- 11) Toilets ~~(s)~~ with lavatory shall be accessible to the dietary staff. ~~(C)~~
- 12) A janitors' closet for the exclusive use of the food preparation areas shall be located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. ~~(C)~~
- 13) Self-dispensing icemaking facilities shall be provided. ~~(C)~~
- 14) Provide adequate can, cart and mobile tray washing facilities as required. ~~(C)~~

## d) Infant Formula Facilities

## 1) On-site Formula Preparation

- A) Clean-up facilities for washing and sterilizing supplies. These shall consist of a lavatory or sink equipped for handwashing, a bottle washer, work counter space, and an equipment sterilizer.
- B) If required by the program, provide a separate room for preparing infant formula. It shall contain a lavatory or sink equipped for handwashing, refrigerator, work counter, formula sterilizer, and storage facilities. It may be located near the nurseries or at another appropriate place within the facility.
- 2) Commercially prepared formula. If a commercial infant formula is used, the storage and handling may be done in room which has

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## Section 390.2690(d)(2) (continued)

a work counter, a sink equipped for handwashing, and storage facilities.

## e) Laundry

- 1) Provide a laundry room with commercial type equipment designed to meet the needs of the facility unless a commercial laundry service is used. ~~(C)~~
- 2) The laundry facilities shall be designed to provide for the processing of linens from soiled linen receiving/sorting through washing, through drying, through clean linen inspection, folding and storage, maintaining a separation between soiled and clean functions. ~~(C)~~
- 3) Provide for the storage of laundry supplies and carts. ~~(C)~~
- 4) If washers and dryers are provided for personal use of residents, they shall be located in a room separate from the facility's laundry room. ~~(C)~~

## f) Housekeeping and Storage

- 1) Sufficient janitor's closets shall be provided throughout the facility as required to maintain a clean and sanitary environment. Each shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. Space-(s)-- for large housekeeping equipment and for back-up supplies may be centrally located. ~~(C)~~
- 2) Provide a total area of approximately ten ~~(10)~~ square feet per resident bed, crib or bassinets for the storage areas designated in this service department. This does not include closets or wardrobes in residents' rooms. Separate storage space with provisions for locking and security control shall be provided for residents' personal effects which are not kept in residents' bedroom. ~~(C)~~
- 3) Provide storage rooms for maintenance supplies, yard equipment and similar items ~~note~~. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)



Section 390.2700 General Building Requirements ~~Building General~~

## a) Elevators

- 1) Have a minimum of one ~~(1)~~ elevator in all buildings of two ~~(2)~~ or more stories in height. The lowest level shall be considered as one ~~(1)~~ story if it is used by residents. (B-~~C~~)
- 2) If ~~sixty (60)~~ to ~~two hundred (200)~~ beds, cribs or bassinets are located above the first floor, at least one ~~(1)~~ additional elevator shall be provided. ~~(C)~~
- 3) For facilities with more than ~~two hundred (200)~~ beds, cribs or bassinets, the number of elevators shall be determined from a study of the use requirements and the estimated vertical transportation requirements.
- 4) A minimum of one ~~(1)~~ car shall be of institutional type having inside dimensions that will accommodate a stretcher and attendants and shall be at least five feet ~~(5' 0")~~ by seven feet, six inches ~~(7' 6")~~. The car door shall have a clear opening of not less than three feet, eight inches ~~(3' 8")~~. ~~(C)~~
- 5) Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type. ~~(C)~~
- 6) Elevator controls, alarm buttons, and telephones shall be accessible to physically handicapped. Refer to ~~State of~~ the Capital Development Board's rules entitled "Illinois Accessibility ~~Standards Illustrated~~ Code" (71 Ill. Adm. Code 400).
- 7) Elevator call buttons, controls, and door safety stops shall be of a type that will not be activated by heat or smoke. (B)
- 8) Elevators, except freight elevators, shall be equipped with a two-way special service key operated switch to permit cars to bypass all landing button calls and be dispatched directly to any floor. (B-~~C~~)
- 9) Fireman's emergency operations shall be furnished in accordance with American National Standards Institute Standard A17.1 Elevator Safety Code. (B)
- 10) Inspections and tests shall be made and written certification be

## Section 390.2700(a)(10) (continued)

furnished that the installation meets the requirements set forth in this Section and all applicable safety regulations and codes. (B)

## b) Handrails and Grab Bars

- 1) Handrails shall be provided on both sides of all corridors and ramps used by residents. (B-~~C~~)
  - 2) Handrails shall be provided on all walls of elevator cab. (B-~~C~~)
  - 3) Handrails on stairs used by residents shall be provided on both sides of the stairs including the platforms and landings. (B)
  - 4) Handrail and grab bar dimensions and details shall conform to the Capital Development Board's rules entitled "Illinois Accessibility Code" ~~Standards Illustrated~~ (71 Ill. Adm. Code 400). (B-~~C~~)
  - 5) Grab bars shall be provided for all resident toilets, showers, and tubs ~~etc.~~. (B-~~C~~)
  - 6) The ends of handrails and grab bars shall return to the wall. (B-~~C~~)
  - 7) Handrails and grab bars shall be installed at a height to meet the special needs of the residents of each facility. (B-~~C~~)
- c) Ceiling Heights
- 1) All rooms occupied or used by residents shall have ceilings not less than eight ~~(8)~~ feet. ~~(C)~~
  - 2) Corridors, storage rooms, toilet rooms and other minor rooms shall have ceilings not less than seven ~~(7)~~ feet, eight ~~(8)~~ inches. ~~(C)~~
  - 3) Suspended tracks, rails and pipes located in the path of traffic shall be no less than six ~~(6)~~ feet eight ~~(8)~~ inches above the floor. ~~(C)~~
  - 4) Boiler room shall have ceiling clearances not less than two ~~(2)~~ feet six ~~(6)~~ inches above the main boiler header and connecting piping. ~~(C)~~

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## Section 390.2700 (continued)

## d) Doors and Windows

- 1) Main entrance and all exit doors shall swing outward and be provided with door closers and panic hardware. (B-~~6~~-)
- 2) Door Alarm Systems. See Section 390.2740(f)(1).
- 3) Locks installed on resident bedroom doors shall be so arranged that they can be quickly and easily unlocked from the corridor side. All such locks shall be arranged to permit exit from the room by a simple operation without the use of a key. The door may be lockable by the occupant if the door can be unlocked from the corridor side and keys are carried by the staff at all times. (B-~~6~~-)
- 4) The doors for the toilet rooms used by residents shall have a minimum door width of three ~~3~~ feet. (B-~~6~~-)
- 5) No toilet or bathroom door shall be provided with hardware which could allow a resident to become locked in the room. All toilet or bathroom doors and hardware shall be designed to permit emergency egress to the room. (B-~~6~~-)
- 6) Doors and windows shall fit snugly and be weather tight, yet open and close easily. ~~(C)~~
- 7) Outside doors, other than required exits, and operable windows shall be equipped with tight-fitting, ~~sixteen~~ ~~16~~ mesh screens. Screen doors shall be equipped with self-closing devices. ~~(C)~~
- 8) All doors to resident's sleeping rooms shall be provided with automatic closers actuated by smoke detectors in the resident room. The doors shall normally be free swinging in the open and close directions, and be designed so they will remain in any position except when they are actuated by the detector. They shall then close gently and shall latch when closed. When so actuated they shall automatically close again if opened manually. Each door shall be equipped with a light mounted on the wall adjacent to the door. The light shall illuminate if the door has been closed as a result of the actuation of the controlling smoke detector. Each door closer will be activated only when its own detector annunciates a fire. In addition, a centrally located monitor shall contain signals which identify

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## Section 390.2700(d)(8) (continued)

- the resident room in which the smoke detector has signaled the alarm. The system shall be wired into the fire alarm system. (B-~~6~~-)
- e) Floors
    - 1) Floors shall be smooth, free from cracks and finished so that they can be easily and properly cleaned. Floors shall be covered wall to wall with water resistant material in wet areas including but not limited to bathrooms, kitchens, utility rooms. (B-~~6~~-)
    - 2) Thresholds and expansion joints shall be flush with the floor to facilitate use of wheelchairs and carts. ~~(C)~~
  - f) Mirrors shall be installed above all lavatories except handwashing lavatories in food preparation areas, clean and sterile supply areas and nurses' handwashing sink. ~~(C)~~
  - g) Provide paper towel dispensers and waste receptacles at all staff used lavatories. ~~(C)~~
  - h) Rooms containing heat-producing equipment (such as boiler or heater rooms and laundry rooms) shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of ~~10~~ ~~Ten~~ ~~degrees Fahrenheit~~ above the ambient room temperature. ~~(C)~~
  - i) Sound Transmission Limitation
    - 1) Recreation rooms and exercise rooms, and similar spaces where impact noises may be generated, shall not be located directly over resident bed areas unless special provisions are made to minimize such noise. ~~(C)~~
    - 2) Sound transmission limitations shown in Table C shall apply to partitions, floors, and ceiling construction in resident areas. ~~(C)~~
  - j) Hazardous Areas, Fire Extinguishers and Miscellaneous
    - 1) Interior finish flame spread ratings shall be in accordance with the National Fire Protection Association, Life Safety Code Standard 101, Standards for Flame Spread and Smoke Emission Ratings. (B)



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## Section 390.2700(j) (continued)

- 2) There shall be at least one ~~(1)~~ approved fire extinguisher in all basements, furnace rooms, and kitchens, laundry rooms and beauty shops. In addition, there shall be on each floor of the building, extinguishers located so a person will not have to travel more than ~~fifty~~ ~~(50)~~ feet from any point to reach one. They shall be inspected annually and recharged when necessary. The date of checking and recharging shall be recorded on a tag attached to the extinguisher. (B-~~6~~)
- 3) Approved containers with proper covers shall be provided for daily storage of rubbish. (B-~~6~~)
- 4) Housekeeping throughout the building, including basements, attics, and unoccupied rooms shall be adequately performed to minimize all fire hazards. (B-~~6~~)
- 5) The facility shall comply with any reasonable additional fire protection measures recommended by the Department over and above these requirements or the Office of the State Fire Marshal if conditions in and around building, including its location, indicate that such additional protection is needed. (B-~~6~~)
- k) Have no other business not related to health care conducted in the building that constitutes a hazard or annoyance to the residents. In any case, the business shall be in a segregated portion of the building and shall have a separate entrance. (A, B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2710 Structural

a) ~~Design Data~~ General Structural Requirements

- 1) The buildings and all parts thereof shall be of sufficient strength to support all dead, live, and lateral loads without exceeding the working stresses permitted for the materials of their construction in generally accepted good engineering practice. (B-~~6~~)
- 2) Special provision shall be made for loads which have a greater load than the specified minimum live load, including partitions which are subject to change of location. (B-~~6~~)
- b) Construction shall be in accordance with the requirements of National

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Fire Protection Association Standard 101, Life Safety Code, and the minimum requirements contained herein. (A, B-~~6~~)

- 1) Foundations shall rest on natural solid ground and shall be carried to a depth of not less than one ~~(1)~~ foot below the estimated frost line or shall rest on leveled rock or load-bearing piles or caissons when solid ground is not encountered. Footings, piers, and foundation walls shall be adequately protected against deterioration from the action of ground water. It is recommended that soil test borings be taken to establish proper soil-bearing values for the soil at the building site. ~~(6)~~
- 2) Assumed live loads shall be in accordance with the International Conference Building Officials Uniform Building Code. ~~(6)~~
- 3) The fire resistance rating of the structural members shall be as established by National Fire Protection Association Standard 220 (Standard Types of Building Construction). ~~(6)~~
- c) Provisions for Natural Disasters (B-~~6~~)
  - 1) Earthquakes: In regions where local experience shows that earthquakes have caused loss of life or extensive property damage, buildings and structures shall be designed to withstand the force assumptions specified in the International Conference Building Officials Uniform Building Code. (B-~~6~~)
  - 2) Tornadoes and Floods: Special provisions shall be made in the design of buildings, including structural design, in regions where local experience shows loss of life or damage to buildings resulting from hurricanes, tornadoes, or floods. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2720 Mechanical Systems

## a) General

- 1) Mechanical systems shall be tested, balanced, and operated to demonstrate that the installation and performance of these systems conform to the requirements of these standards. ~~(6)~~
- 2) Upon the completion of the contract, the owner shall be

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## Section 390.2720(a)(2) (continued)

furnished with a complete set of manufacturer's operating and preventative maintenance instructions, parts list with numbers and descriptions for each piece of equipment and a copy of the air-balance report. A complete set of these documents shall be kept on the premises. ~~(C)~~

- 3) The owner shall be provided with instructions in the operational use of the systems and equipment as required. ~~(C)~~

## b) Thermal and Acoustical Insulation

- 1) Insulation shall be provided for the following:
  - 2) Boilers, smoke breaching, and stacks. ~~(C)~~
  - 3) Steam supply and condensate return piping. ~~(B, C)~~
  - 4) Hot water piping above 180 degrees Fahrenheit and all hot water heaters, generators, and converters. ~~(C)~~
  - 5) Hot water piping above 125 degrees Fahrenheit which is exposed to contact by residents. (B)
  - 6) Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point. ~~(C)~~
  - 7) Water supply and drainage piping on which condensate may occur. ~~(C)~~
  - 8) Air ducts and casings with outside surface temperatures below ambient dew point. ~~(C)~~
  - 9) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system. ~~(C)~~
  - 10) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents when such insulation is not necessary for preventing excessive system heat loss or excessive heat gain. ~~(C)~~
  - 11) Insulation including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment shall have a flame spread rating of ~~twenty-five (25)~~ or less and a smoke developed rating of ~~one hundred fifty (150)~~ or less as determined by an

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## Section 390.2720(b)(1) (continued)

independent testing laboratory in accordance with American Society Testing Materials Standard E84. ~~(B, C)~~ Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements where they are located entirely outside of a building, or do not penetrate a wall or roof or do not create an exposure hazard.

- 12) Access for filter changing shall be provided within equipment rooms. ~~(C)~~
- c) Steam and Hot Water Systems. Supply and return mains and risers for cooling, heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends. ~~(C)~~
- d) Heating, Cooling, and Ventilating Systems
  - 1) A design temperature of 75 degrees Fahrenheit for both summer and winter design conditions shall be provided for all resident use areas including corridors. ~~(C)~~
  - 2) All ventilation supply, return and exhaust systems shall be mechanically operated. ~~(C)~~
  - 3) Outdoor air intakes shall be located as far as practical but not less than ~~fifteen (15)~~ feet from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than six ~~(6)~~ feet above ground level, or if installed above the roof, three ~~(3)~~ feet above roof level.
  - 4) The ventilation systems shall be designed and balanced to provide the pressure relationships and ventilation rates as shown in Table D. ~~(B, C)~~
  - 5) A manometer shall be installed across each filter bed serving central air systems. ~~(C)~~
  - 6) Air conditioning and ventilation systems shall be designed, installed and maintained as required by National Fire Protection Association Standard 90A. ~~(A, B, C)~~
  - 7) The hood and duct system for cooking equipment used in processes



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producing smoke or grease-laden vapors shall be in conformance with National Fire Protection Association Standard 96. That portion of the fire extinguishment system required for protection of the duct system may be omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratories. (A, B, ~~C~~)

- 8) The ventilation of the medical gas storage room ~~(C)~~ shall conform to the requirements of National Fire Protection Association Standard 56A "Inhalation Anesthetics" including the gravity option system. (B, ~~C~~)
- 9) Boiler rooms and other rooms having combustion equipment shall be provided with sufficient outdoor air to maintain combustion rates of equipment and limit temperatures to 97 degrees Fahrenheit. Effective Temperature as defined by American Society Heating Refrigeration Engineers Handbook of Fundamentals. (A, B, ~~C~~)

- 10) Rooms containing heat producing equipment, such as boiler rooms, heater rooms, food preparation centers, laundries, and sterilizer rooms shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of -10-- ten degrees Fahrenheit above the ambient temperature.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2730 Plumbing Systems

- a) ~~General~~ All plumbing systems shall be designed and installed in accordance with the requirements of the Department's rules entitled "Illinois Plumbing Code" (77 Ill. Adm. Code 890), except that the number of resident required water closets, lavatories, bathtubs, showers, and other fixtures shall be as required by the standards and the facility program. (B, ~~C~~)

## b) Plumbing Fixtures

- 1) Plumbing fixtures shall be of non-absorptive acid-resistant materials.
- 2) The water supply spout for lavatories and sinks required for filling pitchers for nursing staff and food handlers'

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## Section 390.2730(b)(2) (continued)

handwashing, shall be mounted so that its discharge point is a minimum distance of five ~~(5)~~ inches above the rim of the fixture. (B, ~~C~~)

- 3) Handwashing lavatories used by nursing staff and food handlers, shall be trimmed with valves which can be operated without the use of hands. When blade handles are used for this purpose, the blade handles shall not exceed four and one half ~~(4 1/2)~~ inches in length, except the handles on clinical sinks shall not be less than six ~~(6)~~ inches in length. ~~(C)~~

- 4) Clinical rim flush sinks shall have an integral trap in which the upper portion of the trap seal provides a visible water surface. ~~(C)~~

- 5) The potwashing sink shall be a three ~~(3)~~ compartment sink with one compartment at least ~~fourteen (14)~~ inches deep. ~~(C)~~

- 6) Shower bases and tub bottoms shall be provided with nonslip surfaces. (B, ~~C~~)

## c) Water Supply Systems

- 1) Water supply systems shall be designed to supply water at sufficient pressure and volume to operate all fixtures and equipment during maximum demand periods. ~~(C)~~
- 2) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture. ~~(C)~~
- 3) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers. ~~(C)~~
- 4) Hot water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. (B, ~~C~~)
- 5) Hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit. (A, B, ~~C~~)
- 6) A thermostatically controlled mixing valve shall be provided on each hot water system serving resident areas to insure that the water temperature does not exceed 110 degrees Fahrenheit. (A, B, ~~C~~)

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## Section 390.2730 (continued)

## d) Hot Water Heaters and Tanks

- 1) The hot water heating equipment shall have sufficient capacity to supply water at the temperature and quantities in the following areas:

	Resident Service	Dietary	Laundry
gallons/hour/bed	6 1/2	4	4 1/2
Temperature (degrees Fahrenheit)	110	140*	180

\*180 degree Fahrenheit water is required at dishwasher and pot and pan sink. Water temperatures to be taken at the point of use or discharge of the hot water or inlet to processing equipment. ~~(C)~~

- 2) Water storage tanks shall be fabricated of corrosion resistant metal or lined with noncorrosive material. ~~(C)~~

- e) Drainage Systems. Insofar as possible drainage piping shall not be installed above the ceiling nor installed in an exposed location in food preparation centers, food serving facilities, food storage areas, and other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems. ~~(B, C)~~

- f) Nonflammable Gas System. Nonflammable medical gas systems if installed shall be in accordance with the requirements of National Fire Protection Association Standards 56A and 56F. ~~(B, C)~~

- g) Clinical Vacuum (Suction) Systems. Clinical vacuum systems if installed shall be in accordance with the requirements of the Compressed Gas Association Pamphlet P-2.1. ~~(B, C)~~

## h) Fire Extinguishing Systems

- 1) A complete automatic sprinkler system shall be installed throughout all facilities regardless of construction type. ~~(A, B, C)~~
- 2) All sprinkler and other fire extinguishing systems shall be designed and installed in accordance with National Fire Protection Association Standard 101 and referenced codes. ~~(A, B, C)~~

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## Section 390.2730(h) (continued)

- 3) All sprinkler systems shall be maintained in accordance with National Fire Protection Association Standard 13A. ~~(A, B, C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2740 Electrical Systems

## a) General

- 1) All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities required by these standards. All materials shall be listed as complying with available standards of Underwriters' Laboratories, Inc. or other similarly established standards. ~~(B, C)~~
- 2) All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified and be in accordance with these standards. ~~(A, B, C)~~
- b) Switchboards and Power Panels. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in ambient temperature conditions. ~~(C)~~
- c) Panelboards. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits. ~~(C)~~
- d) Lighting
- 1) All spaces occupied by people, machinery, and equipment within buildings, approaches to and exits from buildings, and parking lots shall have lighting. ~~(C)~~
- 2) Resident's rooms shall have general lighting. There shall be



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## Section 390.2740(d)(2) (continued)

lighting for the use of staff. At least one light fixture shall be switched at the entrance to each resident room. All switches for control of lighting in resident's sleeping areas shall be of the quiet operating type. ~~(C)~~

## e) Receptacles (Convenience Outlets)

- 1) Each resident bed room shall have duplex grounding type receptacles as follows: One located each side of the head of each bed, crib or bassinet; one for television if used; and one on another wall. (B-~~C~~)
- 2) Resident bathrooms shall have at least one duplex receptacle.
- 3) See Article 517 of National Fire Protection Association Standard 70 for grounding requirements. ~~(C)~~

4) All receptacles shall be of the child safety type or shall be protected by ~~5~~ five milliampere ground fault interrupters.

5) Duplex receptacles shall be installed approximately 50 ~~fifty~~ feet ~~(50'-0")~~ apart in all corridors and within 25 ~~(25'-0")~~ feet ~~(25'-0")~~ of ends of corridors. ~~(C)~~

f) Door Alarm System. Each exterior door shall be equipped with a signal that will alert staff if a resident leaves the building. Any exterior door that is supervised during certain periods may have a disconnect device for part-time use. If there is constant ~~twenty-four~~ 24 hour a day supervision of the door, a signal is not required. (B-, C--)

## g) Nurses' Calling System

- 1) Each resident room shall be served by at least one calling station to be used by staff to summon additional assistance. Call shall register at the nurses' station and shall activate a visible signal in the corridor at the resident's door and in the nurse's station. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two or more calling stations, identifying lights shall be provided at the nurses' station. (B-~~C~~)

2) An accessible nurses' call station shall be provided at each resident's watercloset, bath, and shower room or area. (B-~~C~~)

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## Section 390.2740 (continued)

## h) Fire Alarm System

- 1) A manually and automatically operated fire alarm system shall be installed. (A, B-~~C~~)
  - 2) Automatic smoke detectors shall be installed in all resident sleeping rooms and at ~~thirty~~ (30) feet on center in all corridors other than sleeping area corridors. (A, B-~~C~~)
- i) Emergency Electrical System
- 1) To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power. The emergency system shall consist of the life safety branch and the critical branch. (B-~~C~~)

2) The source of this emergency electric service shall be an emergency generating set or an approved dual source of normal power. (B-~~C~~)

3) Life Safety Branch, Automatic Transfer ten ~~(10)~~ Seconds.

A) Illumination of means of egress as necessary for corridors, passageways, stairways, landings and exit doors, and all ways of approach to and through exits. (A, B-~~C~~)

B) Exit signs and exit directional signs. (A, B-~~C~~)

C) Sufficient lighting in dining room and recreation areas to provide illumination to exit ways. (A, B-~~C~~)

D) Fire alarms activated at manual stations, by electric water flow alarm devices in connection with sprinkler systems, and by all automatic detection systems. (A, B-~~C~~)

E) Communication systems, where these are used for issuing instructions during emergency conditions. (A, B-~~C~~)

F) Task illumination and selected receptacles at the generator set location. (B-~~C~~)

4) Critical Branch, Automatic Transfer Ten ~~(10)~~ Seconds

A) Task illumination and selected receptacles in the nurse's

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Section 390.2740(1)(4)(A) (continued)

station including the medication preparation area. (B-~~6~~)

- B) Sump pumps and other equipment required to operate for the safety of major apparatus including associated control systems and alarms. (B-~~6~~)
- C) Elevator cab lighting and communication systems. (B-~~6~~)
- D) Nurses' call system (B-~~6~~)
- 5) Critical Branch, Automatic or Manual Systems Heating equipment to provide heating for patient rooms. EXCEPTION: Where the facility is served by two ~~(2)~~ or more electrical services supplied from separate generators or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the facility and the generating sources is not likely to cause an interruption of more than one of the facility service feeders. (B-~~6~~)

## 6) Details

- A) The life safety and critical branch shall be in operation within ten ~~(10)~~ seconds after the interruption of normal electric power supply. (B-~~6~~)
- B) Receptacles connected to emergency power shall be distinctively marked. (B-~~6~~)
- C) Where fuel storage facilities are provided on the site, the fuel tank shall have minimum capacity for ~~twenty-four~~ ~~(24)~~ hour operation of the generator. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

## Section 390.2910 Applicability

- a) 1) These standards shall apply to all existing Long-Term Care facilities providing care to children at the time of promulgation of this Part and all minor alterations or

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Section 390.2910(a)(1) (continued)

remodeling changes to existing facilities. See Subpart M for New Construction and Major Additions and Alterations.

- 2) Minor alterations or remodeling changes which do not affect the structural integrity of the building, which do not change functional operations, which do not affect fire safety, and which do not add beds or facilities over those for which the Long-Term Care Facility is licensed need not be submitted for drawing approval. However, the Health Facilities Planning Board Requirements must be met for all alteration and remodeling projects. ~~(6)~~
- b) All Long-Term Care Facilities having architectural drawings and specifications, or the building, first approved by the Department for licensure after October 1, 1974, must meet the applicable requirements of Subpart M to convert to a Long-Term Care Facility for persons under ~~twenty-two~~ ~~(22)~~ years of age. ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2920 Codes and Standards

- a) Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances and regulations which are enforced by City, County or other local jurisdictions. (B-~~6~~)
- b) The 1981 Edition of the National Fire Protection Association (NFPA) Standard No. 101, Life Safety Code for existing structures and all appropriate references under Appendix B of that Code, but no subsequently amended edition of the Code, shall apply to and become a part of these standards. (A, B-~~6~~)
- c) Pursuant to the Medicare/Medicaid certification requirements of 42 CFR 405.1134(a) (1983), but no subsequently amended editions of these Federal regulations, any skilled nursing facility that on December 4, 1980 or on November 26, 1982, or any intermediate care facility that on November 26, 1982 complied with the requirements of the 1967 or 1973 edition of the Life Safety Code, rather than the 1981 edition of the Life Safety Code, will be accepted by the Department for licensure and certification as long as the facility continues to remain in compliance with the 1967 or 1973 edition of the Code.
- d) The following exceptions to the 1967 Life Safety Code have been established by the Department:



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## Section 390.2920(d) (continued)

- 1) Facilities shall be of the heights and construction types with sprinkler requirements identified in Table E. (B-~~G~~-)
- 2) Dead-end corridors greater than ~~fifty~~ (50) feet in length shall be altered so that exits are accessible in at least two ~~(2)~~ directions from all points in aisles, passageways, and corridors. (B-~~G~~-)
- 3) Exit discharge doors and resident sleeping doors must be at least ~~thirty-four~~ (34) inches in width. Width required is the width of the door leaf. ~~(C)~~
- 4) All corridors shall have a minimum wall to wall width of six ~~(6)~~ feet. ~~(C)~~

e) The following equivalencies have been established by the Department: Where corridor partition walls are not continuous from the floor slab to the underside of the floor or roof slab above, through any concealed spaces such as those above the suspended ceilings and through interstitial structural and mechanical spaces, the following equivalencies are permitted: (B-~~G~~-)

- 1) A membrane ceiling which may be lath and plaster or drywall or a lay-in ceiling with all tiles clipped down and with all clips remaining in place, or with all the tiles weighing at least one ~~(1)~~ pound per square foot. The ceiling may be suspended but it must be constructed continually from exterior wall to exterior wall and must be part of a ~~1~~ one-hour rated ceiling assembly. All recessed lights, all duct outlets and all speaker outlets ~~etc.~~ must be properly protected in accordance with Code. Plenums are not allowed unless each outlet is properly protected. This concept is applicable only to ~~2~~ two-hour fire resistive and ~~1~~ one-hour protected noncombustible construction.
- 2) A membrane ceiling of at least a one ~~(1)~~ hour rating (such as two layers of ~~5/8~~ five-eighths inch Fire Code drywall) is acceptable for noncombustible, one ~~(1)~~ hour protected ordinary, ordinary, one ~~(1)~~ hour protected wood frame, woodframe and heavy timber construction.
- 3) Corridor walls need not run up in ~~2~~ two-hour fire resistive and ~~1~~ one-hour protected noncombustible construction if automatic sprinklers are installed throughout.

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## Section 390.2920(e) (continued)

- 4) Smoke detectors may be used in lieu of continuous corridor wall construction all building construction types which are equipped throughout with an automatic extinguishment system required by these Standards. Automatic heat detectors, in lieu of automatic smoke detectors, may be installed in kitchens, laundry rooms, boiler/furnace rooms and attic spaces.

f) The following rules ~~codes~~ which were effective at the date of approval by the Department of the final drawings and specifications or the final inspection of the building apply: (B-~~G~~-)

- 1) Illinois Plumbing Code (77 Ill. Adm. Code 890)<sub>2</sub> ~~State of Illinois~~ Department of Public Health
- 2) Illinois Accessibility Code ~~Standards Illustrated~~ (71 Ill. Adm. Code 400)<sub>1</sub> ~~State of Illinois~~ Capital Development Board
- 3) Fire Prevention and Safety (41 Ill. Adm. Code 100)<sub>1</sub> ~~State of Illinois~~ Office of the State Fire Marshal
- 4) Food Service Sanitation (77 Ill. Adm. Code 750)<sub>1</sub> ~~State of Illinois~~ Department of Public Health
- 5) ~~Boiler and Pressure Vessel Safety Act and~~ Boiler and Pressure Vessel Safety ~~Rules and Regulations~~ (41 Ill. Adm. Code 120)<sub>1</sub> ~~State of Illinois~~ Office of the State Fire Marshal
- ~~6) Safety Glazing Materials Act (111 Rev. Stat. 1985, ch. 111-142, pars. 3101 et seq.) State of Illinois Department of Labor~~
- g) ~~7) The requirements of this Part These Illinois Department of Public Health (IDPH) Standards govern in cases of differences between this Part these IDPH Standards and the Codes and Standards listed in this Section before. (B-, C--)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2930 Preparation of Drawings and Specifications

Drawings and specifications prepared for work which is required by these Standards shall be prepared in accordance with Section 390.2630 ~~of the Construction Standards for New Facilities. (C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 390.2940 Site

- a) Each facility shall comply with all applicable zoning ordinances and be located on a reasonably flat or rolling, well-drained site that is: not subject to flooding; reasonably free from sources of excessive noise, noxious or hazardous smoke or fumes; not in a deteriorated, unpleasant, or potentially hazardous area; and not near uncontrolled sources of insect and rodent breeding. ~~(C)~~
- b) Each facility shall be located in or near a community which can provide the necessary supportive services for the facility such as physicians' services, social services, transportation, recreation, religious services, medical facilities, public utilities, or other acceptable substitutes; and be located on a well-maintained, all-weather road. In those instances where the community does not provide these services, the facility shall do so. ~~(C)~~
- c) Each facility shall be served by a potable water supply with water pressure and volume that is acceptable to this Department. (B)
- d) Each facility shall have at least one ~~(1)~~ municipal or private fire hydrant, located within ~~three hundred~~ ~~(300)~~ feet of the building and satisfactory for use by the equipment of the fire department serving the building, or have an acceptable equivalent. Additional hydrants may be required if needed to properly protect the residents from fire hazards. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.2950 Administration and Public Areas

- a) Facilities for the physically handicapped (public, staff and residents) shall be provided in administration and public areas as well as in resident areas. ~~(C)~~
- b) Each facility shall be provided with sufficient administrative office space for clerical, financial, and managerial functions and provide satisfactory space which can be used for privacy in interviewing applicants, for discussion with relatives and other related uses ~~etc.~~
- c) Each facility shall be provided with satisfactory space or an office for the administrator.
- d) Each facility shall be served by reliable telephone service.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 390.2960 Nursing Unit

## a) General Requirements for Bedrooms

- 1) Resident bedrooms shall have an entrance directly off of a corridor with an entrance door that swings into the room. ~~(C)~~
- 2) Provide a closet or wardrobe of at least four ~~(4)~~ square feet for each resident. ~~(C)~~
- 3) No bedroom floor shall be more than three ~~(3)~~ feet below the adjacent ground level. ~~(C)~~
- 4) Each room used as a resident bedroom shall have at least one ~~(1)~~ outside window with a total window area equal to one-tenth ~~(1/10)~~ the floor area of the room. ~~(C)~~
- 5) There shall be separate bedrooms for males and females over six ~~(6)~~ years of age unless the interdisciplinary team determines that separation is not necessary due to the functional level of individual residents. ~~(C)~~
- 6) A handwashing lavatory shall be provided in each bedroom.
- 7) Resident bedrooms shall have adequate and satisfactory artificial light and be equipped in accordance with Section 390.3040(c). ~~(C)~~
- 8) Receptacles shall be provided in accordance with Section 390.3040(d). ~~(C)~~
- 9) Nurses' call system shall be provided in accordance with Section 390.3040(e). (B, ~~C~~)
- 10) Visual privacy shall be provided for residents in multibed rooms in accordance with Section 390.2220(a)(4). Location of screen or curtain shall not restrict resident access to entry, lavatory, or toilet. ~~(C)~~
- 11) Resident toilet rooms shall open directly into a corridor or into a resident's bedroom.

## b) Resident Bedrooms

- 1) Each single resident bedroom used for a resident shall have at least ~~one hundred~~ ~~(100)~~ square feet of usable net floor area, not including any space taken up for closets, wardrobes,



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## Section 390.2960(b)(1) (continued)

bathrooms, and clearly definable entryway areas. ~~(C)~~

- 2) Each multiple bedroom for residents shall have the following floor areas; exclusive of closets, wardrobes, clearly definable entryways:

- A) Not less than ~~Seventy-five~~ ~~(75)~~ square feet per bed. Size: ~~38"-40"~~ x ~~75"-84"~~.
- B) Not less than ~~Sixty-five~~ ~~(65)~~ square feet per small bed. Size: ~~37"~~ to less than ~~38"~~ x ~~61"~~ to less than ~~75"~~.
- C) Not less than ~~Sixty~~ ~~(60)~~ square feet per large crib. Size: ~~30"~~ to less than ~~37"~~ x ~~56"~~ to less than ~~61"~~.
- D) Not less than ~~Forty-five~~ ~~(45)~~ square feet per medium crib. Size: ~~27"~~ to less than ~~30"~~ x ~~43"~~ to less than ~~56"~~.
- E) Not less than ~~Forty~~ ~~(40)~~ square feet per small crib. Size: ~~19"~~ to less than ~~27"~~ x ~~35"~~ to less than ~~43"~~.
- F) Not less than ~~Twenty-four~~ ~~(24)~~ square feet per bassinet. Size: Smaller than ~~19"~~ x ~~35"~~.
- 3) All sleeping accommodations shall be adequate in size considering the resident's age, size, mobility, and functional level.

- 4) Multiple bedrooms shall not have more than eight ~~(8)~~ residents.

- 5) Provide a minimum clearance of three ~~(3)~~ feet at the foot and one side of all sleeping accommodations. Clearance is not required when accommodation is not occupied, however, an exit path must always be maintained in accordance with the requirements of the National Fire Protection Association's Standard No. 101: Life Safety Code.

- 6) The minimum dimension of bedrooms shall be nine ~~(9)~~ feet between walls or a wall with any built-in furniture or storage space.

## c) Special Care Room

- 1) Provide one ~~(1)~~ special care room per facility complying with

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## Section 390.2960(c)(1) (continued)

bedroom requirements subsections (a) and (b) of this Section ~~above~~.

- 2) Additional rooms may be required depending upon the bed capacity of the facility.
- 3) Provide a minimum of one ~~(1)~~ ~~workroom~~ adjacent to or between each special care room containing lavatories, water closets or clinical rim flush sinks and all the equipment necessary to maintain a safe standard of special care.
- 4) This room shall be located to provide proper and efficient supervision of the resident by the nursing staff. ~~(C)~~
- 5) When more than one ~~(1)~~ resident is housed in this room, it may only be used to isolate residents with the same communicable disease.
- 6) This room shall be included in the authorized maximum bed capacity for the facility.
- 7) It is permissible for the room to be occupied by a resident not in need of special care, provided the resident is clearly informed and understands ~~he/she~~ they will be immediately transferred out of the room any time of day or night, whenever the room is needed to care for a resident requiring special care. ~~(C)~~

## d) Nurses' Station

- 1) Provide a minimum of one ~~(1)~~ nurses' station for each nursing unit. The station shall have direct access to a corridor, shall be located near the area it will serve, and shall be designed to provide visual control of the area. It shall be separated satisfactorily from the nurses' utility rooms. ~~(B-C)~~
- 2) Each nurses' station shall have a medicine sink with hot and cold running water, a work counter, a medicine cabinet, and necessary equipment and furnishings. ~~(C)~~
- 3) Provide a nurses' toilet with handwashing sink convenient to the nurses' station. ~~(C)~~

## e) Bathing and Toilet Rooms

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## Section 390.2960(e) (continued)

- 1) The minimum number of fixtures per resident use floor shall be one ~~(1)~~ lavatory, one ~~(1)~~ water closet, and one ~~(1)~~ bathing fixture.
- 2) Additional fixtures shall be provided on each floor based on the maximum capacity of beds, cribs or bassinets (even though some may not be occupied), as follows:
  - A) Lavatories: One ~~(1)~~ per eight ~~(8)~~
  - B) Clinical rim flush sink ~~and/or~~ or water closet for residents capable of using them: One ~~(1)~~ per eight ~~(8)~~
  - C) Bathing or shower fixtures: One ~~(1)~~ per twelve ~~(12)~~
- 3) Provide on each floor at least one ~~(1)~~ bathing facility or enclosure of not less than eight ~~(8)~~ feet six ~~(6)~~ inches by eight ~~(8)~~ feet six ~~(6)~~ inches with an acceptable system for bathing residents with physical disabilities.
- 4) If a shower is installed instead of a bathtub, such shower shall have a minimum dimension of four ~~(4)~~ feet wide by three ~~(3)~~ feet six ~~(6)~~ inches deep. These showers shall have a water inlet to which is connected a flexible hose with spray or shower head attached to the end of the hose. If desired, a conventional shower head installation may also be provided but it must be valved off from the lower water inlet. ~~(6)~~
- ~~5) Shower stalls shall have a low or no curb at the entrance opening. Under certain circumstances this may be waived but in no instances can the curb be higher than three (3) inches. (6)~~
- ~~6) 5) Other acceptable fixtures for bathing the residents may be provided with Department approval.~~
- ~~7) 6) All plumbing fixtures shall be designed and installed to satisfactorily serve the residents using them.~~
- ~~8) 7) There shall be separate toilet and bathing areas on each floor for males and females over six (6) years of age unless the interdisciplinary team determines that separation is not necessary due to the functional level of individual residents. (6)~~

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## Section 390.2960(e) (continued)

- ~~9) 8) If toilet rooms provided adjacent to bedrooms are not large enough to permit use by wheelchairs, at least one (1) toilet room or enclosure measuring five (5) feet by six (6) feet shall be provided on each floor housing residents. Provide a lavatory usable from a wheelchair in this room. (6)~~
- ~~10) 9) All bath and toilet rooms shall be easily accessible and conveniently located. Group bath and toilet facilities shall be partitioned or curtained for privacy. (6)~~
- F) Utility Rooms
  - 1) Every facility shall have clean and soiled utility functions in separate rooms on each floor having resident beds, cribs or bassinets. ~~(6)~~
  - 2) Clean Utility Room
    - A) The clean utility room shall be large enough to contain:
      - i) a work counter or table;
      - ii) a sink with drainboard;
      - iii) ample storage cabinets for clean and sterile supplies and equipment; and
      - iv) an autoclave, if required, for sterilizing needles, syringes, catheters, dressings, and similar items.
    - B) The autoclave may be located in the nurses' station area. The autoclave may be waived in lieu of other methods of sterilization approved by the Department. ~~(6)~~
  - 3) The soiled utility room shall be large enough to contain:
    - A) a two compartment sink with drainboards;
    - B) ample storage cabinets;
    - C) a clinical rim flush sink for: rinsing bed pans, urinals, and linen soiled by solid materials, and similar type procedures; and
    - D) equipment for sanitizing bed pans, emesis basins, urine



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## Section 390.2960(f)(3)(D) (continued)

bottles, and other utensils, which meets accepted methods and procedures for such sanitation.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 390.2970 Play, Dining, Activity/Program Room ~~(C)~~

## a) General

- 1) The combined area of these rooms shall not be less than ~~twenty~~ ~~(20)~~ square feet per resident beds, cribs or bassinets. ~~(C)~~
- 2) The activity/program room ~~(C)~~ may be combined with the playroom ~~(C)~~ and/or dining room.
- 3) Locate these rooms so that they are not an entrance vestibule from the outside. ~~(C)~~
- 4) All furniture shall be arranged so that it is not an obstruction to traffic in or out of the facility. ~~(C)~~
- 5) Playing and feeding functions, if suitable and consistent with the programs may occur in bedrooms. However, dining rooms, playrooms, and activity rooms may not be used for resident bedrooms. ~~(C)~~

## b) Dining

- 1) Provide at least one ~~(1)~~ furnished dining room in the facility sufficient in area to allow proper and comfortable service for the residents.
- 2) A dining room may not be necessary if sufficient space is available for individual feeding of residents when required due to the functional level of the individual residents as determined by the interdisciplinary team.

## c) Play

- 1) Playroom shall be provided on each floor in multiple story buildings unless a variance to this requirement is approved in writing by the Department. Such a variance may be granted based upon the population and condition of the residents.

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## Section 390.2970(c) (continued)

- 2) This room shall have adequate space to permit residents to run.
- 3) There shall be satisfactory outdoor play area and equipment to meet the needs of all residents who can be taken outdoors.

- d) Activity/Program. Additional interior rooms may be used for television, craft, or similar activities.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2980 Treatment and Personal Care

Space and appropriate equipment shall be provided to meet the resident's needs for treatment, grooming and hair care. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.2990 Service Department

## a) Kitchen

- 1) Provide a kitchen area, not including food storage area, of approximately ten ~~(10)~~ square feet per resident bed; this may be reduced for a facility with ~~forty~~ ~~(40)~~ or more beds. Any deviation from this requirement must receive approval from the Department. Such approval will only be granted if it can be shown that sufficient space can be provided to meet the needs of the residents. ~~(B-C)~~
- 2) Provide kitchen equipment in an arrangement for convenient operation, good sanitation, healthful working conditions and control of heat, noise, and odors. ~~(B-C)~~
- 3) Provide appropriate equipment for the preparation and serving of meals. ~~(B-C)~~
- 4) Provide refrigeration of perishable foods. ~~(B-C)~~
- 5) The kitchen shall be equipped with a two ~~(2)~~ compartment sink for washing and sanitizing dishes, pots, pans and utensils. ~~(B-C)~~ A commercial type dishwasher is recommended.
- 6) The kitchen shall be provided with a handwashing lavatory. ~~(B-C)~~

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## Section 390.2990(a) (continued)

- 7) The walls and ceilings of all food handling rooms shall be finished with smooth, washable, light-colored surfaces. ~~(C)~~
  - 8) All openings to the outside shall be effectively screened during fly seasons, and screen doors shall be equipped with self-closing devices; or a satisfactory alternative method. ~~(C)~~
  - 9) The kitchen shall be located so that no resident must pass through it to reach a bathroom, resident's bedroom, the living room, dining room, or the out-of-doors. ~~(B, C)~~
  - 10) Provide approximately two and one-half ~~(2 1/2)~~ square feet per patient bed for bulk and daily food storage located in a room convenient to the kitchen. ~~(C)~~
- b) Formula Area
- 1) If commercially prepared formulas are used, there shall be clean storage and dispensing areas provided.
  - 2) If the facility is preparing its own formula, the formula area shall contain elbow, foot or knee controlled lavatory, a sink, refrigerator, and an autoclave or other approved system for terminal sterilization. Additional equipment and utensils necessary for carrying on proper techniques in formula preparation and storage shall be provided.
  - 3) The facility shall be a separated room or provide an appropriate area for bottle and nipple washing and cleaning, equipped as necessary to carry out proper technique.

## c) Laundry

- 1) Provide a laundry room equipped with adequate facilities for satisfactorily doing all laundering, unless a commercial laundry service is used. ~~(C)~~
- 2) Provide satisfactory and separate areas for soiled holding and sorting and clean linen storage. These may be in the same room if well defined and adequate separation is provided. ~~(C)~~
- 3) The laundry facilities shall not be located in a room used by residents, or for food storage, preparation or serving. It shall be located so that soiled linens are not carried through a

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## Section 390.2990(c)(3) (continued)

food handling area to reach it. ~~(B, C)~~

## d) Storage

- 1) Provide a total area of approximately seven and one-half ~~(7 1/2)~~ square feet per resident bed for the storage area required in this Section. ~~(C)~~
  - 2) Provide adequate storage space for personal possessions of residents and staff, toys, linens, supplies, and other items. This storage shall be such that it does not constitute a fire or accident hazard and will not be in the way of residents or staff. ~~(C)~~
  - 3) Provide adequate storage space in the facility, out of the way of residents and staff, to store wheelchairs, walkers, and similar equipment temporarily not being used. ~~(C)~~
  - 4) Provide closets for cleaning supplies, janitor's sinks, linen closets, storerooms for luggage, and furniture replacements—~~etc.~~ ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 390.3000 General Building Requirements ~~Building-General~~

## a) Elevators

- 1) Provide a minimum of one ~~(1)~~ elevator in all buildings of three ~~(3)~~ or more stories in height. Additional elevators shall be provided as determined by the Department, based on the number, population, and condition of the residents. The lowest level, if it is used by residents, shall be considered as one ~~(1)~~ story. ~~(C)~~
- 2) If ~~sixty (60)~~ to ~~two hundred (200)~~ beds, cribs and bassinets are located above the second floor, at least one ~~(1)~~ additional elevator shall be provided. If over ~~two hundred (200)~~ beds, cribs and bassinets are located above the second floor, the number of additional elevators shall be determined by the Department. ~~(C)~~
- 3) The administrator of the facility must be able to demonstrate to the Department the ability to transfer a resident according to



## Section 390.3000(a)(3) (continued)

physician's orders using existing elevators and elevator doors. ~~(C)~~

## b) Handrails and Grab Bars

- 1) Handrails shall be provided on both sides of all corridors, stairs, and ramps. Handrails shall be one and one-half ~~(1-1/2)~~ inches in diameter and one and one-half ~~(1-1/2)~~ inches minimum clear of the wall. Refer to ~~State of~~ the rules of the Capital Development Board entitled "Illinois Accessibility Code" (71 Ill. Adm. Code 400) ~~Standards~~ for other acceptable handrail dimensions and details. (B-~~C~~)

- 2) Grab bars shall be provided at all resident toilets, showers, tubs, and sitz bath~~s, etc.~~. Refer to ~~State of~~ the rules of the Capital Development Board entitled "Illinois Accessibility Code" (71 Ill. Adm. Code 400) ~~Standards~~ for grab bar dimensions and details. (B-~~C~~)

- 3) Handrails and grab bars shall be installed at a height to meet the special needs of the residents of each facility. (B-~~C~~)

## c) Ceiling Heights

- 1) All rooms occupied by or used by residents shall have not less than eight ~~(8)~~ feet ceiling height. ~~(C)~~
- 2) Corridors, storage rooms, toilet rooms and other minor rooms shall have not less than seven feet eight inches ~~(7'-8")~~ ceiling height. ~~(C)~~
- 3) Suspended tracks, rails and pipes located in the path of traffic shall not be less than six feet eight inches ~~(6'-8")~~ above the floor. ~~(C)~~

## d) Doors and Windows

- 1) Main entrance and exit doors shall swing outward and be provided with door closers and panic-hardware. (B-~~C~~)
- 2) Door Alarm System. See Section 390.3040(f).
- 3) Locks installed on resident bedroom doors shall be so arranged that they can be quickly and easily unlocked from the corridor side. All such locks shall be arranged to permit exit from the

## Section 390.3000(d)(3) (continued)

room by a simple operation without the use of a key. The door may be lockable by the occupant if the door can be unlocked from the corridor side and the keys are carried by the attendants at all times. (B-~~C~~)

- 4) The doors for the toilet rooms used by residents shall have a minimum door width of ~~thirty~~ ~~(30)~~ inches. (B-~~C~~)
- 5) No toilet or bathroom door shall be provided with hardware which could allow a resident to become locked in the room. All toilet or bathroom doors and hardware shall be designed to permit emergency egress from the room. (B-~~C~~)

- 6) Thresholds or parting strips in doorways used by residents shall be in accordance to State of Illinois Accessibility Standards. ~~(C)~~

- 7) Doors and windows shall fit snugly and be weather tight, and shall open and close easily. ~~(C)~~

- 8) Outside doors, other than required exits, and operable windows shall be equipped with tight-fitting, ~~16~~ sixteen mesh screens. Screen doors shall be equipped with self-closing devices. ~~(C)~~

## e) Floors

- 1) Floors shall be smooth, free from cracks and finished so that they can be easily and properly cleaned. (B-~~C~~)
- 2) Floors in bathrooms, kitchens, and utility rooms shall be completely covered with water resistant material. (B-~~C~~)

## f) Walls and Ceilings

- 1) Walls and ceilings shall have sound construction, covered with plaster or sheet rock or similar material in good repair, and free from cracks or holes to permit proper cleaning. ~~(C)~~
- 2) Be constructed and maintained so as to prevent the entrance and harborage of rats, mice, flies, and other vermin. ~~(C)~~
- g) Exit corridor walls shall be one ~~(1)~~ hour fire rated construction. Adjoining open spaces shall not be greater than ~~544~~ ~~hundred~~ ~~(500)~~ square feet. Provide direct visual supervision of

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## Section 390.3000(g) (continued)

these open spaces and equip them with an electrically supervised smoke detection system. (B-~~G~~)

- h) There shall be at least one ~~(1)~~ approved fire extinguisher in all basements, furnace rooms, and kitchens. In addition, there shall be on each floor of the building extinguishers located so a person will not have to travel more than ~~fifty (50)~~ feet from any point to reach one. They shall be inspected annually and recharged when necessary. The date of checking and recharging shall be recorded on a tag attached to the extinguisher. (B-~~G~~)

- i) Approved containers with proper covers shall be provided for daily storage of rubbish. (B-~~G~~)

- j) Housekeeping throughout the building, including basements, attics, and unoccupied rooms shall be adequately performed to minimize all fire hazards. (B-~~G~~)

- k) Comply with any reasonable additional fire protection measures recommended by the Department over and above these requirements or the office of the State Fire Marshall if conditions in and around building, including its location, indicate that such additional protection is needed. (B-~~G~~)

- l) Facilities shall have no other business in the building which is unrelated to health care that constitutes a hazard or annoyance to the residents. In any case, the business shall be in a segregated portion of the building and must be approved by the Department. Such approval will be granted only when it can be shown that the business will not interfere in any way with the residents. (A, B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.3010 Structural

- a) Buildings and all parts thereof shall be maintained structurally to support all dead, live and lateral loads. (B-~~G~~)

- b) Buildings shall be maintained in good repair. Buildings that show signs of distress shall be repaired immediately. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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## Section 390.3020 Mechanical Systems

- a) Mechanical systems shall be maintained to assure proper working order and safe operation. Instructions in the operational use of the systems and equipment must be available at the facility. (B-~~G~~)
- b) Thermal and Acoustical Insulation. It is recommended that insulation be provided for the following:

- 1) Boilers, smoke breeching, and stacks.
- 2) Steam supply and condensate return piping.
- 3) Hot water piping above 180 degrees Fahrenheit and all hot water heaters, generators, and converters.
- 4) Hot water piping above 125 degrees Fahrenheit which is exposed to contact by residents.
- 5) Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point.
- 6) Water supply and drainage piping on which condensation may occur.
- 7) Air ducts and casings with outside surface temperature below ambient dew point.
- 8) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.
- 9) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents when such insulation is not necessary for preventing excessive systems heat loss or excessive heat gain.
- 10) Insulation on cold surfaces shall include an exterior vapor barrier. ~~(G)~~
- 11) Insulation including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment shall have a flame spread rating of 25 or less and a smoke developed rating of 150 or less as determined by an independent testing laboratory in accordance with ASTM Standard E 84. Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements where they are located entirely outside of a building or do not penetrate a wall or roof or do not create an exposure hazard. ~~(G)~~



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## Section 390.3020 (continued)

- c) It is recommended that supply and return mains and risers for cooling, heating and process steam systems be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends. ~~(C)~~
- d) Heating, Cooling, and Ventilating Systems
- 1) The heating system shall be capable of maintaining a temperature of 75 degrees Fahrenheit in all resident use spaces. ~~(C)~~
  - 2) Auxiliary gas or electric space heaters of an approved closed type may be installed in areas requiring more heat than is produced by the central heating system. Heaters or furnaces of a type to be installed under, in, or on the floor are not permitted. ~~(B, G)~~
  - 3) All ventilation supply return and exhaust systems shall be mechanically operated. ~~(C)~~
  - 4) The kitchen shall be provided with ventilation for reasonable comfort and with sufficient make-up air for the rangehood exhaust. ~~(B, G)~~
  - 5) The laundry shall be provided with ventilation for reasonable comfort with air flowing from clean areas to soiled areas with exhaust to the outdoors. ~~(B, G)~~
  - 6) It is recommended that outdoor air intakes be located as far as practical but not less than 15 feet from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems should be located as high as practical but not less than ~~6~~ six feet above ground level, or if installed above the roof, ~~3~~ three feet above roof level. ~~(C)~~
  - 7) Air conditioning and ventilating systems shall be maintained to conform to the requirements of NFPA 90A. ~~(A, B, G)~~
  - 8) The hood and duct system for cooking equipment shall be in conformance with NFPA 96. That portion of the fire extinguishment system required for protection of the duct system may be omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratory. ~~(A, B, G)~~

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## Section 390.3020(d) (continued)

- 9) Boiler rooms and other rooms housing combustion equipment shall be provided with sufficient outdoor air to maintain proper combustion rates. ~~(A, B, G)~~
  - 10) A capability shall be provided to maintain a temperature of at least ~~fifty-five~~ 55 degrees Fahrenheit for at least ~~twelve~~ 12 hours when the normal source of electrical power is interrupted. ~~(A, B, G)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 390.3030 Plumbing Systems

## a)

- 1) All plumbing systems shall be designed and installed in accordance with the requirements of the Department's rules entitled "Illinois Plumbing Code" (77 Ill. Adm. Code 890) except that the number of water closets, lavatories, bath tubs, showers and other fixtures shall be as required by these Requirements and the facility program. ~~(B, G)~~
- 2) New and replacement equipment, fixtures and fittings for mechanical, plumbing and electrical systems shall conform to and be installed in accordance with Subpart M.

## b) Plumbing Fixtures

- 1) Plumbing fixtures shall be of nonabsorptive acid-resistant materials and shall be kept in good repair. ~~(C)~~
- 2) Clinical rim flush sinks shall have an integral trap in which the upper portion of the trap seal provides a visible water surface. ~~(C)~~
- 3) The kitchen shall be equipped with a two ~~(2)~~ compartment sink for washing pots and pans. One ~~(1)~~ compartment shall contain no less than ~~fourteen~~ 14 inches depth of 170 degrees Fahrenheit water. A commercial type dishwasher is recommended. ~~(C)~~
- 4) When existing showers or tubs are replaced or additional showers or tubs provided, the shower bases and tub bottoms shall be provided with nonslip surfaces.

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## Section 390.3030 (continued)

## c) Water Supply Systems

- 1) Water supply systems shall be designed to supply potable water at sufficient pressure and volume to operate all plumbing fixtures and equipment during maximum demand periods. ~~(C)~~
- 2) It is recommended that each water service main, branch main, riser and branch to a group of fixtures be valved. Stop valves should be provided at each fixture.
- 3) Hot water distribution systems shall be arranged to provide hot water at each hot water outlet at all times.
- 4) Hot water available to residents at shower bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit. (A, B, ~~C~~)

5) Protective measures, such as but not limited to, installation of a mixing valve, limited access to controls, and checking water temperatures daily at various points, shall be implemented to insure that the temperature of hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit. (A, B, ~~C~~)

d) Special precautions shall be taken to protect food preparation, serving or storage areas from possible leakage or condensation from necessary overhead piping systems. (B, ~~C~~)

e) All fire extinguishment systems shall be designed and installed in accordance with NFPA 101 and NFPA 13. All fire extinguishment systems shall be maintained in accordance with NFPA 13A. (A, B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.3040 Electrical Requirements

- a) The electrical installation for existing facilities shall continue to meet all the requirements of the National Electrical Code, effective at the time of approval by the Department of final drawings and specification or the inspection of the building. (A, B, ~~C~~)
- b) Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front

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## Section 390.3040(b) (continued)

type of assembly. Overload protective devices shall be suitable for operating properly in ambient temperature conditions. ~~(C)~~

## c) Lighting.

- 1) All spaces occupied by people, machinery, or equipment within buildings, approaches to buildings, and parking lots shall have lighting. ~~(C)~~

- 2) Resident's rooms shall have general lighting. ~~(C)~~

## d) Receptacles

- 1) Each resident room shall have adequate duplex type receptacles.
- 2) All receptacles shall be of the child safety type, or protected by covers. ~~(C)~~

## e) Nurses' Calling System.

- 1) Each resident room shall be served by at least one calling station to be used by staff to summon additional assistance. Call shall register at the nurses' station and shall activate a visible signal in the corridor at the resident's door.

2) Facilities with an intercommunication system which provides only voice communication between a resident room and the nurses' station may remain in service when approved by the Department.

- 3) An accessible nurses' call station shall be provided at each resident's water closet, bathing and shower room or area.

f) Door Alarm System. All exterior doors shall be equipped with a signal that will alert the staff if a resident leaves the building. Any exterior door that is supervised during certain periods may have a disconnect device for part-time use. If there is constant ~~twenty-four~~ ~~(24)~~ hour a day supervision of the door, a signal is not required. (B, ~~C~~)

## g) Fire Alarm System

- 1) A manually-operated, electrically-supervised fire alarm system shall be installed. Pre-signal systems are not permitted. (A, B, ~~C~~)



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## Section 390.3040(g) (continued)

- 2) There shall be an approved fire detection and alarm system throughout the facility. (A, B-~~G~~)
- 3) The fire alarm signals shall automatically transmit the alarm to any available municipal fire department by direct private line or through an approved central station. (A, B-~~G~~)
- 4) Fire alarms shall be activated by manual stations and all detection systems and flow alarm devices and sprinkler systems. (A, B-~~G~~)

h) Emergency Electrical Requirements (B-~~G~~)

- 1) To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power. (B-~~G~~)
- 2) The source of this emergency electrical service shall be one of the following: (B-~~G~~)

- A) An emergency generating set when the normal service is supplied by only one ~~(1)~~ central station transmission line.
- B) Automatic battery operated systems or equipment that will be effective for four ~~(4)~~ or more hours and will be capable of supplying power for lighting for exit signs, exit corridors, stairways, nurses' stations, communication system, and all alarm systems, including the nurses' call system.
- C) An approved dual source of normal power. Such a dual source of normal power shall consist of two ~~(2)~~ or more electrical services fed from separate generator sets or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the facility and the generating sources will not likely cause an interruption of more than one of the facility service feeders. An automatic transfer switch is required between the facility service feeders.

- 3) Provide emergency electrical service for: (B-~~G~~)

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## Section 390.3040(h)(3) (continued)

- A) illumination of means of egress as necessary for corridors, passageways, stairways, landings and exit doors and all ways of approach to and through exits including outside lights,
- B) exit signs and exit directional signs,
- C) fire alarm systems and detection systems,
- D) communication systems which are used for issuing instructions,
- E) task illumination in the nurses station.
- F) nurse call system

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART O: RESIDENT'S RIGHTS

## Section 390.3210 General

- a) NO RESIDENT SHALL BE DEPRIVED OF ANY RIGHTS, BENEFITS, OR PRIVILEGES GUARANTEED BY LAW, THE CONSTITUTION OF THE STATE OF ILLINOIS, OR THE CONSTITUTION OF THE UNITED STATES SOLELY ON ACCOUNT OF HIS STATUS AS A RESIDENT OF A FACILITY. (A, B-~~G~~) (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-101)
- b) A RESIDENT SHALL BE PERMITTED TO RETAIN AND USE OR WEAR HIS PERSONAL PROPERTY IN HIS IMMEDIATE LIVING QUARTERS, UNLESS DEEMED MEDICALLY INAPPROPRIATE BY A PHYSICIAN AND SO DOCUMENTED IN THE RESIDENT'S CLINICAL RECORD. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-103)
- c) IF CLOTHING IS PROVIDED TO THE RESIDENT BY THE FACILITY IT SHALL BE OF A PROPER FIT. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-103)
- d) THE FACILITY SHALL PROVIDE ADEQUATE AND CONVENIENT STORAGE SPACE FOR THE PERSONAL PROPERTY OF THE RESIDENT. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-103)
- e) THE FACILITY SHALL PROVIDE A MEANS OF SAFEGUARDING SMALL ITEMS OF VALUE FOR ITS RESIDENTS IN THEIR ROOMS OR IN ANY OTHER PART OF THE

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## Section 390.3210(e) (continued)

FACILITY SO LONG AS THE RESIDENTS HAVE DAILY ACCESS TO SUCH VALUABLES. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-103)

F) THE FACILITY SHALL DEVELOP PROCEDURES FOR INVESTIGATING COMPLAINTS CONCERNING THEFT OF RESIDENT'S PROPERTY AND SHALL PROMPTLY INVESTIGATE ALL SUCH COMPLAINTS. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-103)

g) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT MARRIED RESIDENTS RESIDING IN THE SAME FACILITY BE ALLOWED TO RESIDE IN THE SAME ROOM WITHIN THE FACILITY UNLESS THERE IS NO ROOM AVAILABLE IN THE FACILITY OR IT IS DEEMED MEDICALLY INADVISABLE BY THE RESIDENT'S ATTENDING PHYSICIAN AND SO DOCUMENTED IN THE RESIDENT'S MEDICAL RECORDS. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-108(e))

h) There shall be no traffic through a resident's room to reach any other area of the building. ~~(B, G)~~

i) Children under ~~sixteen~~ ~~(16)~~ years of age who are related to employees or owners of a facility, and who are not themselves employees of the facility, shall be restricted to quarters reserved for family or employee use except during times when such children are part of a group visiting the facility as part of a planned program, or similar activity. ~~(G)~~

j) A RESIDENT MAY REFUSE TO PERFORM LABOR FOR A FACILITY. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-113)

k) A RESIDENT SHALL BE PERMITTED THE FREE EXERCISE OF RELIGION. UPON A RESIDENT'S REQUEST, AND IF NECESSARY AT HIS EXPENSE, THE FACILITY ADMINISTRATOR SHALL MAKE ARRANGEMENTS FOR A RESIDENT'S ATTENDANCE AT RELIGIOUS SERVICES OF THE RESIDENT'S CHOICE. HOWEVER, NO RELIGIOUS BELIEFS OR PRACTICES, OR ATTENDANCE AT RELIGIOUS SERVICES, MAY BE IMPOSED UPON ANY RESIDENT. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-109)

l) All facilities shall comply with "The Election Code" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 46, pars. 1-1 et seq.) as it pertains to absentee voting for residents of licensed long-term care facilities. ~~(G)~~

m) THE FACILITY SHALL IMMEDIATELY NOTIFY THE RESIDENT'S NEXT OF KIN, REPRESENTATIVE AND PHYSICIAN OF THE RESIDENT'S DEATH OR WHEN THE RESIDENT'S DEATH APPEARS TO BE IMMINENT. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-208)

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## Section 390.3210 (continued)

n) The facility shall also immediately notify the resident's family, guardian, representative, conservator and any private or public agency financially responsible for the resident's care whenever emergency situations occur such as accidents, sudden illness, disease, unexplained absences, and other circumstances arise, such as extraordinary resident charges, billings, or related administrative matters. ~~(B, G)~~

o) WHERE A RESIDENT, A RESIDENT'S REPRESENTATIVE OR A RESIDENT'S NEXT OF KIN BELIEVES THAT AN EMERGENCY EXISTS EACH OF THEM, COLLECTIVELY OR SEPARATELY, MAY FILE A VERIFIED PETITION TO THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE FACILITY IS LOCATED FOR AN ORDER PLACING THE FACILITY UNDER CONTROL OF A RECEIVER. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-503)

(Source: Amended at 13 Ill. Reg. , effective )

## Section 390.3220 Medical and Personal Care Program

a) A RESIDENT SHALL BE PERMITTED TO RETAIN THE SERVICES OF HIS OWN PERSONAL PHYSICIAN AT HIS OWN EXPENSE UNDER AN INDIVIDUAL OR GROUP PLAN OF HEALTH INSURANCE, OR UNDER ANY PUBLIC OR PRIVATE ASSISTANCE PROGRAM PROVIDING SUCH COVERAGE. ~~(B, G)~~

b) THE DEPARTMENT SHALL NOT PRESCRIBE THE COURSE OF MEDICAL TREATMENT PROVIDED TO AN INDIVIDUAL RESIDENT BY THE RESIDENT'S PHYSICIAN IN A FACILITY. ~~(G)~~

c) EVERY RESIDENT SHALL BE PERMITTED TO OBTAIN FROM HIS OWN PHYSICIAN OR THE PHYSICIAN ATTACHED TO THE FACILITY COMPLETE AND CURRENT INFORMATION CONCERNING HIS MEDICAL DIAGNOSIS, TREATMENT AND PROGNOSIS IN TERMS AND LANGUAGE THE RESIDENT CAN REASONABLY BE EXPECTED TO UNDERSTAND. ~~(G)~~

d) EVERY RESIDENT SHALL BE PERMITTED TO PARTICIPATE IN THE PLANNING OF HIS TOTAL CARE AND MEDICAL TREATMENT TO THE EXTENT THAT HIS CONDITION PERMITS. ~~(G)~~

e) NO RESIDENT SHALL BE SUBJECTED TO EXPERIMENTAL RESEARCH OR TREATMENT WITHOUT FIRST OBTAINING HIS INFORMED, WRITTEN CONSENT. THE CONDUCT OF ANY EXPERIMENTAL RESEARCH OR TREATMENT SHALL BE AUTHORIZED AND MONITORED BY AN INSTITUTIONAL REVIEW COMMITTEE APPOINTED BY THE ADMINISTRATOR OF THE FACILITY WHERE SUCH RESEARCH AND TREATMENT IS CONDUCTED. ~~(A, B, G)~~



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## Section 390.3220 (continued)

- f) EVERY RESIDENT SHALL BE PERMITTED TO REFUSE MEDICAL TREATMENT AND TO KNOW THE CONSEQUENCES OF SUCH ACTION, UNLESS SUCH REFUSAL WOULD BE HARMFUL TO THE HEALTH AND SAFETY OF OTHERS AND SUCH HARM IS DOCUMENTED BY A PHYSICIAN IN THE RESIDENT'S CLINICAL RECORD. (B—~~G~~—)
- g) EVERY RESIDENT, RESIDENT'S GUARDIAN, OR PARENT IF THE RESIDENT IS A MINOR SHALL BE PERMITTED TO INSPECT AND COPY ALL HIS CLINICAL AND OTHER RECORDS CONCERNING HIS CARE AND MAINTENANCE KEPT BY THE FACILITY OR BY HIS PHYSICIAN (see Section 2-104 (c) of the Act). ~~(G)~~
- h) EVERY RESIDENT'S REPRESENTATIVE SHALL BE PERMITTED TO INSPECT AND COPY THE RESIDENT'S RECORDS. A "RESIDENT'S REPRESENTATIVE" IS A PERSON, OTHER THAN THE OWNER OR AN AGENT OR EMPLOYEE OF A FACILITY WHO IS NOT RELATED TO THE RESIDENT, DESIGNATED IN WRITING BY A RESIDENT TO BE HIS REPRESENTATIVE, OR THE RESIDENT'S GUARDIAN, OR THE PARENT OF A MINOR RESIDENT FOR WHOM NO GUARDIAN HAS BEEN APPOINTED (see Sections 2-202 (h) and 1-123 of the Act). ~~(G)~~
- i) A RESIDENT SHALL BE PERMITTED RESPECT AND PRIVACY IN HIS MEDICAL AND PERSONAL CARE PROGRAM. EVERY RESIDENT'S CASE DISCUSSION, CONSULTATION, EXAMINATION AND TREATMENT SHALL BE CONFIDENTIAL AND SHALL BE CONDUCTED DISCREETLY, AND THOSE PERSONS NOT DIRECTLY INVOLVED IN THE RESIDENT'S CARE MUST HAVE HIS PERMISSION TO BE PRESENT. (B—~~G~~—) ~~75-03-00-00~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.3230 Restraints

- a) NEITHER PHYSICAL RESTRAINTS NOR CONFINEMENTS SHALL BE EMPLOYED FOR THE PURPOSE OF PUNISHMENT OR FOR THE CONVENIENCE OF ANY FACILITY PERSONNEL. NO PHYSICAL RESTRAINTS OR CONFINEMENTS SHALL BE EMPLOYED EXCEPT AS ORDERED BY A PHYSICIAN WHO DOCUMENTS THE NEED FOR SUCH RESTRAINTS OR CONFINEMENTS IN THE RESIDENT'S CLINICAL RECORD. (B—~~G~~—)
- b) Restraints and confinements may be employed only when necessary to prevent a resident from injuring himself or others. The physician's written authorization shall specify the precise time periods and conditions in which any restraints and confinements shall be employed. (B—~~G~~—)

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## Section 390.3230 (continued)

- c) Neither shall medication be employed by a facility as a restraint or confinement except as employed as part of a duly prescribed therapeutic medical treatment program authorized by the resident's physician and documented in the resident's clinical record. (B—~~G~~—)
- d) No resident shall be subjected to any behavior modification program which utilizes restraints, confinements, or aversive stimuli of any nature unless and until the informed consent of such resident, resident's guardian, or parent of a minor resident has been obtained. (B—~~G~~—)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.3240 Abuse and Neglect

- a) AN OWNER, LICENSEE, ADMINISTRATOR, EMPLOYEE OR AGENT OF A FACILITY SHALL NOT ABUSE OR NEGLECT A RESIDENT. (A, B—~~G~~—)
- b) A FACILITY EMPLOYEE OR AGENT WHO BECOMES AWARE OF ABUSE OR NEGLECT OF A RESIDENT SHALL IMMEDIATELY REPORT THE MATTER TO THE FACILITY ADMINISTRATOR. ~~(G)~~
- c) A FACILITY ADMINISTRATOR WHO BECOMES AWARE OF ABUSE OR NEGLECT OF A RESIDENT SHALL IMMEDIATELY REPORT THE MATTER BY TELEPHONE AND IN WRITING TO THE RESIDENT'S REPRESENTATIVE, AND TO THE DEPARTMENT. ~~(G)~~

- d) In addition to this Part, the facility must comply with any other applicable Federal, State, or local requirements regarding the reporting of alleged abuse or neglect of residents.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.3250 Communication and Visitation

- a) EVERY RESIDENT SHALL BE PERMITTED UNIMPEDED, PRIVATE AND UNCENSORED COMMUNICATION OF HIS CHOICE BY MAIL, PUBLIC TELEPHONE OR VISITATION. ~~(G)~~
- b) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT CORRESPONDENCE IS CONVENIENTLY RECEIVED AND MAILED, AND THAT TELEPHONES ARE REASONABLY ACCESSIBLE. ~~(G)~~

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## Section 390.3250 (continued)

- c) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT RESIDENTS MAY HAVE PRIVATE VISITS AT ANY REASONABLE HOUR UNLESS SUCH VISITS ARE NOT MEDICALLY ADVISABLE FOR THE RESIDENT AS DOCUMENTED IN THE RESIDENT'S CLINICAL RECORD BY THE RESIDENT'S PHYSICIAN. ~~(G)~~
- d) The facility shall allow daily visiting between 10:00—A.M. and 8:00—P.M. These visiting hours shall be posted in plain view of visitors. ~~(G)~~
- e) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT SPACE FOR VISITS IS AVAILABLE AND THAT FACILITY PERSONNEL KNOCK, EXCEPT IN AN EMERGENCY, BEFORE ENTERING ANY RESIDENT'S ROOM. ~~(G)~~
- f) UNIMPEDED, PRIVATE AND UNCENSORED COMMUNICATION BY MAIL, PUBLIC TELEPHONE, AND VISITATION MAY BE REASONABLY RESTRICTED BY A PHYSICIAN ONLY IN ORDER TO PROTECT THE RESIDENT OR OTHERS FROM HARM, HARASSMENT OR INTIMIDATION PROVIDED THAT THE REASON FOR ANY SUCH RESTRICTION IS PLACED IN THE RESIDENT'S CLINICAL RECORD BY THE PHYSICIAN AND THAT NOTICE OF SUCH RESTRICTION SHALL BE GIVEN TO ALL RESIDENTS UPON ADMISSION. ~~(G)~~
- g) NOTWITHSTANDING SUBSECTION (f) OF THIS SECTION ~~ABOVE~~, ALL LETTERS ADDRESSED BY A RESIDENT TO THE GOVERNOR, MEMBERS OF THE GENERAL ASSEMBLY, ATTORNEY GENERAL, JUDGES, STATE'S ATTORNEYS, OFFICERS OF THE DEPARTMENT, OR LICENSED ATTORNEYS AT LAW SHALL BE FORWARDED AT ONCE TO THE PERSONS TO WHOM THEY ARE ADDRESSED WITHOUT EXAMINATION BY FACILITY PERSONNEL. LETTERS IN REPLY FROM THE OFFICIALS AND ATTORNEYS MENTIONED ABOVE SHALL BE DELIVERED TO THE RECIPIENT WITHOUT EXAMINATION BY FACILITY PERSONNEL. ~~(G)~~
- h) ANY EMPLOYEE OR AGENT OF A PUBLIC AGENCY, ANY REPRESENTATIVE OF A COMMUNITY LEGAL SERVICES PROGRAM OR ANY MEMBER OF A COMMUNITY ORGANIZATION SHALL BE PERMITTED ACCESS AT REASONABLE HOURS TO ANY INDIVIDUAL RESIDENT OF ANY FACILITY, IF THE PURPOSE OF SUCH AGENCY, PROGRAM OR ORGANIZATION INCLUDES RENDERING ASSISTANCE TO RESIDENTS WITHOUT CHARGE, BUT ONLY IF THERE IS NEITHER A COMMERCIAL PURPOSE NOR AFFECT TO SUCH ACCESS AND IF THE PURPOSE IS TO DO ANY OTHER THAN THE FOLLOWING:

- 1) VISIT, TALK WITH AND MAKE PERSONAL, SOCIAL, AND LEGAL SERVICES AVAILABLE TO ALL RESIDENTS; ~~(G)~~
- 2) INFORM RESIDENTS OF THEIR RIGHTS AND ENTITLEMENTS AND THEIR CORRESPONDING OBLIGATIONS, UNDER FEDERAL AND STATE LAWS, BY MEANS OF EDUCATIONAL MATERIALS AND DISCUSSIONS IN GROUPS AND

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## Section 390.3250(h)(2) (continued)

- WITH INDIVIDUAL RESIDENTS; ~~(G)~~
- 3) ASSIST RESIDENTS IN ASSERTING THEIR LEGAL RIGHTS REGARDING CLAIMS FOR PUBLIC ASSISTANCE, MEDICAL ASSISTANCE AND SOCIAL SECURITY BENEFITS, AS WELL AS IN ALL OTHER MATTERS IN WHICH RESIDENTS ARE AGGRIEVED. ASSISTANCE MAY INCLUDE COUNSELING AND LITIGATION; OR ~~(G)~~
  - 4) ENGAGE IN OTHER METHODS OF ASSERTING, ADVISING AND REPRESENTING RESIDENTS SO AS TO EXTEND TO THEM FULL ENJOYMENT OF THEIR RIGHTS. ~~(G)~~
  - 1) NO VISITOR SHALL ENTER THE IMMEDIATE LIVING AREA OF ANY RESIDENT WITHOUT FIRST IDENTIFYING HIMSELF AND THEN RECEIVING PERMISSION FROM THE RESIDENT TO ENTER. THE RIGHTS OF OTHER RESIDENTS PRESENT IN THE ROOM SHALL BE RESPECTED. (B, ~~G~~)
  - 2) A RESIDENT MAY TERMINATE AT ANY TIME A VISIT BY A PERSON HAVING ACCESS TO THE RESIDENT'S LIVING AREA. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.3260 Resident's Funds

- a) A RESIDENT SHALL BE PERMITTED TO MANAGE HIS OWN FINANCIAL AFFAIRS UNLESS HE OR HIS GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT, AUTHORIZES THE ADMINISTRATOR OF THE FACILITY IN WRITING TO MANAGE SUCH RESIDENT'S FINANCIAL AFFAIRS UNDER SUBSECTIONS (b) THROUGH (n) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~—1987, ch. 111 1/2, par. 4152-102)
- b) THE FACILITY SHALL AT THE TIME OF ADMISSION, PROVIDE, IN ORDER OF PRIORITY, EACH RESIDENT, OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, WITH A WRITTEN STATEMENT EXPLAINING THE RESIDENT'S RIGHTS REGARDING PERSONAL FUNDS AND LISTING THE SERVICES FOR WHICH THE RESIDENT WILL BE CHARGED, AND OBTAIN A SIGNED ACKNOWLEDGEMENT FROM EACH RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, THAT SUCH PERSON HAS RECEIVED THE STATEMENT. ~~(G)~~—(Ill. Rev. Stat. ~~1985~~—1987, ch. 111 1/2, par. 4152-201(1))
- c) THE FACILITY MAY ACCEPT FUNDS FROM A RESIDENT FOR SAFEKEEPING AND MANAGING, IF IT RECEIVES WRITTEN AUTHORIZATION FROM, IN ORDER OF



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## Section 390.3260(c) (continued)

PRIORITY, THE RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY; SUCH AUTHORIZATION SHALL BE ATTESTED TO BY A WITNESS WHO HAS NO PECUNIARY INTEREST IN THE FACILITY OR ITS OPERATIONS, AND WHO IS NOT CONNECTED IN ANY WAY TO FACILITY PERSONNEL OR THE ADMINISTRATOR IN ANY MANNER WHATSOEVER. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(2))

d) THE FACILITY SHALL MAINTAIN AND ALLOW, IN ORDER OF PRIORITY, EACH RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, ACCESS TO A WRITTEN RECORD OF ALL FINANCIAL ARRANGEMENTS AND TRANSACTIONS INVOLVING THE INDIVIDUAL RESIDENT'S FUNDS. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(3))

e) THE FACILITY SHALL PROVIDE, IN ORDER OF PRIORITY, EACH RESIDENT, OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, WITH A WRITTEN ITEMIZED STATEMENT AT LEAST QUARTERLY, OF ALL FINANCIAL TRANSACTIONS INVOLVING THE RESIDENT'S FUNDS. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(4))

f) THE FACILITY SHALL PURCHASE A SURETY BOND TO GUARANTEE THE SECURITY OF RESIDENT'S FUNDS. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(5))

g) THE FACILITY SHALL KEEP ANY FUNDS RECEIVED FROM A RESIDENT FOR SAFEKEEPING IN AN ACCOUNT SEPARATE FROM THE FACILITY'S FUNDS, AND SHALL AT NO TIME WITHDRAW ANY PART OR ALL OF SUCH FUNDS FOR ANY PURPOSE OTHER THAN TO RETURN THE FUNDS TO THE RESIDENT UPON THE REQUEST OF THE RESIDENT OR ANY OTHER PERSON ENTITLED TO MAKE SUCH REQUEST, TO PAY THE RESIDENT HIS ALLOWANCE, OR TO MAKE ANY OTHER PAYMENT AUTHORIZED BY THE RESIDENT OR ANY OTHER PERSON ENTITLED TO MAKE SUCH AUTHORIZATION. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(6))

h) THE FACILITY SHALL DEPOSIT ANY FUNDS RECEIVED FROM A RESIDENT IN EXCESS OF \$100 IN AN INTEREST BEARING ACCOUNT INSURED BY AGENCIES OF, OR CORPORATIONS CHARTERED BY, THE STATE OR FEDERAL GOVERNMENT. THE ACCOUNT SHALL BE IN A FORM WHICH CLEARLY INDICATES THAT THE FACILITY HAS ONLY A FIDUCIARY INTEREST IN THE FUNDS AND ANY INTEREST FROM THE ACCOUNT SHALL ACCRUE TO THE RESIDENT. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(7))

i) THE FACILITY MAY KEEP UP TO \$100 OF A RESIDENT'S MONEY IN A

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## Section 390.3260(i) (continued)

NON-INTEREST BEARING ACCOUNT OR PETTY CASH FUND, TO BE READILY AVAILABLE FOR THE RESIDENT'S CURRENT EXPENDITURES. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(7))

j) THE FACILITY SHALL RETURN TO THE RESIDENT, OR THE PERSON WHO EXECUTED THE WRITTEN AUTHORIZATION REQUIRED IN SUBSECTION (c) OF THIS SECTION, UPON WRITTEN REQUEST, ALL OR ANY PART OF THE RESIDENT'S FUNDS GIVEN THE FACILITY FOR SAFEKEEPING, INCLUDING THE INTEREST ACCRUED FROM DEPOSITS. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(8))

k) THE FACILITY SHALL PLACE ANY MONTHLY ALLOWANCE TO WHICH A RESIDENT IS ENTITLED IN THAT RESIDENT'S PERSONAL ACCOUNT, OR GIVE IT TO THE RESIDENT, UNLESS THE FACILITY HAS WRITTEN AUTHORIZATION FROM THE RESIDENT OR THE RESIDENT'S GUARDIAN, OR IF THE RESIDENT IS A MINOR, HIS PARENT, TO HANDLE IT DIFFERENTLY. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(9))

l) UNLESS OTHERWISE PROVIDED BY STATE LAW, THE FACILITY SHALL UPON THE DEATH OF A RESIDENT PROVIDE THE EXECUTOR OR ADMINISTRATOR OF THE RESIDENT'S ESTATE WITH A COMPLETE ACCOUNTING OF ALL THE RESIDENT'S PERSONAL PROPERTY, INCLUDING ANY FUNDS OF THE RESIDENT BEING HELD BY THE FACILITY. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(10))

m) IF AN ADULT RESIDENT IS INCAPABLE OF MANAGING HIS FUNDS AND DOES NOT HAVE A RESIDENT'S REPRESENTATIVE, GUARDIAN, OR AN IMMEDIATE FAMILY MEMBER THE FACILITY SHALL NOTIFY THE OFFICE OF THE STATE GUARDIAN OF THE GUARDIANSHIP AND ADVOCACY COMMISSION. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(11))

n) IF THE FACILITY IS SOLD, THE SELLER SHALL PROVIDE THE BUYER WITH A WRITTEN VERIFICATION BY A PUBLIC ACCOUNTANT OF ALL RESIDENTS' MONIES AND PROPERTIES BEING TRANSFERRED, AND OBTAIN A SIGNED RECEIPT FROM THE NEW OWNER. ~~-(C)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(12))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 390.3270 Residents' Advisory Council

Each resident shall have the right to participate in a residents' advisory council as indicated in Section 390.650. ~~-(C)-~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 390.3280 Contract With Facility

Each resident shall have the right to contract with the facility as indicated in Section 390.640. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.3290 Private Right of Action

- a) Each resident shall have the right to maintain a private right of action against a facility as described in subsections (b) through (i) of this Section ~~below~~.
- b) THE OWNER AND LICENSEE OF A FACILITY ARE LIABLE TO A RESIDENT FOR ANY INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF THEIR AGENTS OR EMPLOYEES WHICH INJURES THE RESIDENT.
- c) THE LICENSEE SHALL PAY ~~2~~ THREE TIMES THE ACTUAL DAMAGES, OR \$500, WHICHEVER IS GREATER, AND COSTS AND ATTORNEY'S FEES TO A FACILITY RESIDENT WHOSE RIGHTS AS SPECIFIED IN PART 1 OF ARTICLE II OF THE ACT ARE VIOLATED.
- d) A RESIDENT MAY MAINTAIN AN ACTION UNDER THIS ACT AND THIS PART FOR ANY OTHER TYPE OF RELIEF, INCLUDING INJUNCTIVE AND DECLARATORY RELIEF, PERMITTED BY LAW.
- e) ANY DAMAGES RECOVERABLE UNDER SUBSECTIONS (b) THROUGH (i) OF THIS SECTION, INCLUDING MINIMUM DAMAGES AS PROVIDED BY THIS PART, MAY BE RECOVERED IN ANY ACTION WHICH A COURT MAY AUTHORIZE TO BE BROUGHT AS A CLASS ACTION PURSUANT TO THE CIVIL PRACTICE ACT (Ill. Rev. Stat. ~~1983~~ 1987, ch. 110, pars. 2-101 et seq.). THE REMEDIES PROVIDED IN SUBSECTIONS (b) THROUGH (i) OF THIS SECTION ARE IN ADDITION TO AND CUMULATIVE WITH ANY OTHER LEGAL REMEDIES AVAILABLE TO A RESIDENT. EXHAUSTION OF ANY AVAILABLE ADMINISTRATIVE REMEDIES SHALL NOT BE REQUIRED PRIOR TO COMMENCEMENT OF A SUIT HEREUNDER.
- f) THE AMOUNT OF DAMAGES RECOVERED BY A RESIDENT IN AN ACTION BROUGHT UNDER SUBSECTIONS (b) THROUGH (i) OF THIS SECTION SHALL BE EXEMPT FOR PURPOSES OF DETERMINING INITIAL OR CONTINUING ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER "THE ILLINOIS PUBLIC AID CODE" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 23, pars. 1-1 et seq.), AS NOW OR HEREAFTER AMENDED, AND SHALL NEITHER BE TAKEN INTO CONSIDERATION NOR REQUIRED TO BE APPLIED TOWARD THE PAYMENT OR PARTIAL PAYMENT OF THE COST OF MEDICAL CARE OR SERVICES AVAILABLE UNDER "THE ILLINOIS PUBLIC AID CODE."

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## Section 390.3290 (continued)

- g) ANY WAIVER BY A RESIDENT OR HIS LEGAL REPRESENTATIVE OF THE RIGHT TO COMMENCE AN ACTION UNDER SUBSECTIONS (b) THROUGH (i) OF THIS SECTION, WHETHER ORAL OR IN WRITING, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT.
- h) ANY PARTY TO AN ACTION BROUGHT UNDER SUBSECTIONS (b) THROUGH (i) OF THIS SECTION SHALL BE ENTITLED TO A TRIAL BY JURY AND ANY WAIVER OF THE RIGHT TO A TRIAL BY JURY, WHETHER ORAL OR IN WRITING, PRIOR TO THE COMMENCEMENT OF AN ACTION, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT.
- i) A LICENSEE OR ITS AGENTS OR EMPLOYEES SHALL NOT TRANSFER, DISCHARGE, EVICT, HARASS, DISMISS, OR RETALIATE AGAINST A RESIDENT, A RESIDENT'S REPRESENTATIVE, OR AN EMPLOYEE OR AGENT WHO MAKES A REPORT OF RESIDENT ABUSE OR NEGLECT, BRINGS OR TESTIFIES IN A PRIVATE RIGHT OF ACTION, OR FILES A COMPLAINT, BECAUSE OF THE SUCH ACTION OR TESTIMONY. (~~B-C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 390.3300 Transfer and/or Discharge

- a) A RESIDENT MAY BE VOLUNTARILY DISCHARGED FROM A FACILITY AFTER HE GIVES THE ADMINISTRATOR, A PHYSICIAN, OR A NURSE OF THE FACILITY WRITTEN NOTICE OF HIS DESIRE TO BE DISCHARGED. IF A GUARDIAN HAS BEEN APPOINTED FOR A RESIDENT OR IF THE RESIDENT IS A MINOR, THE RESIDENT SHALL BE DISCHARGED UPON WRITTEN CONSENT OF HIS GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT UNLESS THERE IS A COURT ORDER TO THE CONTRARY. IN SUCH CASES, UPON THE RESIDENT'S DISCHARGE, THE FACILITY IS RELIEVED FROM ANY RESPONSIBILITY FOR THE RESIDENT'S CARE, SAFETY OR WELL-BEING. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-111)
- b) Each resident's rights regarding involuntary transfers or discharge from a facility shall be as described in subsections (c) through (y) of this Section.
- c) Reasons for Transfer or Discharge
  - 1) A FACILITY MAY INVOLUNTARY TRANSFER OR DISCHARGE A RESIDENT ONLY FOR ONE OR MORE OF THE FOLLOWING REASONS: ~~SHALL NOT INVOLUNTARILY TRANSFER OR DISCHARGE A RESIDENT EXCEPT~~
    - A) FOR MEDICAL REASONS. ~~1~~



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## Section 390.3300(c)(1) (continued)

- B) FOR THE RESIDENT'S PHYSICAL SAFETY. ~~OR~~
- C) FOR THE PHYSICAL SAFETY OF OTHER RESIDENTS, THE FACILITY STAFF OR FACILITY VISITORS. ~~OR~~
- D) FOR EITHER LATE PAYMENT OR NONPAYMENT FOR THE RESIDENT'S STAY, EXCEPT AS PROHIBITED BY TITLE XVIII AND XIX OF THE FEDERAL SOCIAL SECURITY ACT. FOR PURPOSES OF THIS SECTION, "LATE PAYMENT" MEANS NON-RECEIPT OF PAYMENT AFTER SUBMISSION OF A BILL. IF PAYMENT IS NOT RECEIVED WITHIN 45 DAYS AFTER SUBMISSION OF A BILL, THE FACILITY MAY SEND A NOTICE TO THE RESIDENT AND RESPONSIBLE PARTY REQUESTING PAYMENT WITHIN 30 DAYS. IF PAYMENT IS NOT RECEIVED WITHIN SUCH 30 DAYS, THE FACILITY MAY THEREUPON INSTITUTE TRANSFER OR DISCHARGE PROCEEDINGS BY SENDING A NOTICE OF TRANSFER OR DISCHARGE TO THE RESIDENT AND RESPONSIBLE PARTY BY REGISTERED OR CERTIFIED MAIL. THE NOTICE SHALL STATE, IN ADDITION TO THE REQUIREMENTS OF SECTION 3-403 OF THE ACT and subsection (e) of this Section, THAT THE RESPONSIBLE PARTY HAS THE RIGHT TO PAY THE AMOUNT OF THE BILL IN FULL UP TO THE DATE THE TRANSFER OR DISCHARGE IS TO BE MADE AND THEN THE RESIDENT SHALL HAVE THE RIGHT TO REMAIN IN THE FACILITY. SUCH PAYMENT SHALL TERMINATE THE TRANSFER OR DISCHARGE PROCEEDINGS. THIS SUBSECTION DOES NOT APPLY TO THOSE RESIDENTS WHOSE CARE IS PROVIDED UNDER THE ILLINOIS PUBLIC AID CODE. (8-~~6~~) (111. Rev. Stat. 1987 ~~1988~~, ch. 111 1/2, par. 4153-401)

## 2) Prohibition of Discrimination

- ~~1)~~ A) A FACILITY PARTICIPATING IN THE MEDICAL ASSISTANCE PROGRAM IS PROHIBITED FROM FAILING OR REFUSING TO RETAIN AS A RESIDENT ANY PERSON BECAUSE THE RESIDENT IS A RECIPIENT OF OR AN APPLICANT FOR THE MEDICAL ASSISTANCE PROGRAM. FOR THE PURPOSES OF THIS SECTION, A RECIPIENT OR APPLICANT SHALL BE CONSIDERED A RESIDENT IN THE FACILITY DURING A HOSPITAL STAY TOTALING TEN DAYS OR LESS FOLLOWING A HOSPITAL ADMISSION. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-401.1(a)).

- ~~2)~~ B) A FACILITY WHICH VIOLATES SUBSECTION (C)(2)(A) ~~1)~~ OF THIS SECTION SHALL BE GUILTY OF A BUSINESS OFFENSE AND

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## Section 390.3300(c)(2)(B) (continued)

FINED NOT LESS THAN \$500 NOR MORE THAN \$1,000 FOR THE FIRST OFFENSE AND NOT LESS THAN \$1,000 NOR MORE THAN \$5,000 FOR EACH SUBSEQUENT OFFENSE. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-401.1(b))

- d) INVOLUNTARY TRANSFER OR DISCHARGE OF A RESIDENT FROM A FACILITY SHALL BE PRECEDED BY THE DISCUSSION REQUIRED UNDER SUBSECTION (j) OF THIS SECTION AND BY A MINIMUM WRITTEN NOTICE OF 21 DAYS. THE 21-DAY REQUIREMENT SHALL NOT APPLY IN ANY OF THE FOLLOWING INSTANCES:

- 1) WHEN AN EMERGENCY TRANSFER OR DISCHARGE IS MANDATED BY THE RESIDENT'S HEALTH CARE NEEDS AND IS IN ACCORD WITH THE WRITTEN ORDERS AND MEDICAL JUSTIFICATION OF THE ATTENDING PHYSICIAN; (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-402(a))
- 2) WHEN THE TRANSFER OR DISCHARGE IS MANDATED BY THE PHYSICAL SAFETY OF OTHER RESIDENTS AS DOCUMENTED IN THE CLINICAL RECORD. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-402(b))

- e) THE NOTICE REQUIRED BY SUBSECTION (d) OF THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND SHALL CONTAIN ALL OF THE FOLLOWING:

- 1) THE STATED REASON FOR THE PROPOSED TRANSFER OR DISCHARGE; ~~(C)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(a))
- 2) THE EFFECTIVE DATE OF THE PROPOSED TRANSFER OR DISCHARGE; ~~(C)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(b))
- 3) A STATEMENT IN NOT LESS THAN 12-POINT TYPE, WHICH READS: "YOU HAVE A RIGHT TO APPEAL THE FACILITY'S DECISION TO TRANSFER OR DISCHARGE YOU. IF YOU THINK YOU SHOULD NOT HAVE TO LEAVE THIS FACILITY, YOU MAY FILE A REQUEST FOR A HEARING WITH THE DEPARTMENT OF PUBLIC HEALTH WITHIN ~~10~~ TEN DAYS AFTER RECEIVING THIS NOTICE. IF YOU REQUEST A HEARING, IT WILL BE HELD NOT LATER THAN TEN ~~(10)~~ DAYS AFTER YOUR REQUEST, AND YOU GENERALLY WILL NOT BE TRANSFERRED OR DISCHARGED DURING THAT TIME. IF THE DECISION FOLLOWING THE HEARING IS NOT IN YOUR FAVOR, YOU GENERALLY WILL NOT BE TRANSFERRED OR DISCHARGED PRIOR TO THE EXPIRATION OF 30 DAYS FOLLOWING RECEIPT OF THE ORIGINAL NOTICE OF THE TRANSFER OR DISCHARGE. A FORM TO APPEAL THE FACILITY'S DECISION AND TO REQUEST A HEARING IS ATTACHED. IF YOU HAVE ANY QUESTIONS, CALL THE DEPARTMENT OF PUBLIC HEALTH AT

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## Section 390.3300(e)(3) (continued)

THE TELEPHONE NUMBER LISTED BELOW," ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(c))

- 4) A HEARING REQUEST FORM, TOGETHER WITH A POSTAGE PAID, PREADDRESSED ENVELOPE TO THE DEPARTMENT; AND ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(d))
- 5) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON CHARGED WITH THE RESPONSIBILITY OF SUPERVISING THE TRANSFER OR DISCHARGE. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(e))

f) A REQUEST FOR A HEARING MADE UNDER SUBSECTION (e) OF THIS SECTION SHALL STAY A TRANSFER PENDING A HEARING OR APPEAL OF THE DECISION, UNLESS A CONDITION WHICH WOULD HAVE ALLOWED TRANSFER OR DISCHARGE IN LESS THAN 21 DAYS AS DESCRIBED UNDER SUBSECTIONS (d)(1) AND (2) OF THIS SECTION DEVELOPS IN THE INTERIM. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-404)

g) A COPY OF THE NOTICE REQUIRED BY SUBSECTION (d) OF THIS SECTION SHALL BE PLACED IN THE RESIDENT'S CLINICAL RECORD AND A COPY SHALL BE TRANSMITTED TO THE DEPARTMENT. THE RESIDENT, THE RESIDENT'S REPRESENTATIVE, AND, IF THE RESIDENT'S CARE IS PAID FOR IN WHOLE OR PART THROUGH TITLE XIX, TO THE DEPARTMENT OF PUBLIC AID. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-405)

h) WHEN THE BASIS FOR AN INVOLUNTARY TRANSFER OR DISCHARGE IS THE RESULT OF AN ACTION BY THE DEPARTMENT OF PUBLIC AID WITH RESPECT TO A RECIPIENT OF TITLE XIX AND A HEARING REQUEST IS FILED WITH THE DEPARTMENT OF PUBLIC AID, THE 21-DAY WRITTEN NOTICE PERIOD SHALL NOT BEGIN UNTIL A FINAL DECISION IN THE MATTER IS RENDERED BY THE DEPARTMENT OF PUBLIC AID OR A COURT OF COMPETENT JURISDICTION AND NOTICE OF THAT FINAL DECISION IS RECEIVED BY THE RESIDENT AND THE FACILITY. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-406)

i) WHEN NONPAYMENT IS THE BASIS FOR INVOLUNTARY TRANSFER OR DISCHARGE, THE RESIDENT SHALL HAVE THE RIGHT TO REDEEM UP TO THE DATE THAT THE DISCHARGE OR TRANSFER IS TO BE MADE AND THEN SHALL HAVE THE RIGHT TO REMAIN IN THE FACILITY. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-407)

j) THE PLANNED INVOLUNTARY TRANSFER OR DISCHARGE SHALL BE DISCUSSED WITH THE RESIDENT, THE RESIDENT'S REPRESENTATIVE AND PERSON OR AGENCY RESPONSIBLE FOR THE RESIDENT'S PLACEMENT, MAINTENANCE, AND CARE IN THE FACILITY. THE EXPLANATION AND DISCUSSION OF THE REASONS FOR

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## Section 390.3300(j) (continued)

INVOLUNTARY TRANSFER OR DISCHARGE SHALL INCLUDE THE FACILITY ADMINISTRATOR OR OTHER APPROPRIATE FACILITY REPRESENTATIVE AS THE ADMINISTRATOR'S DESIGNEE. THE CONTENT OF THE DISCUSSION AND EXPLANATION SHALL BE SUMMARIZED IN WRITING AND SHALL INCLUDE THE NAMES OF THE INDIVIDUALS INVOLVED IN THE DISCUSSIONS AND MADE A PART OF THE RESIDENT'S CLINICAL RECORD. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-408)

k) THE FACILITY SHALL OFFER THE RESIDENT COUNSELING SERVICES BEFORE THE TRANSFER OR DISCHARGE OF THE RESIDENT. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-409)

l) A RESIDENT SUBJECT TO INVOLUNTARY TRANSFER OR DISCHARGE FROM A FACILITY, THE RESIDENT'S GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT SHALL HAVE THE OPPORTUNITY TO FILE A REQUEST FOR A HEARING WITH THE DEPARTMENT WITHIN ~~10~~ TEN DAYS FOLLOWING RECEIPT OF THE WRITTEN NOTICE OF THE INVOLUNTARY TRANSFER OR DISCHARGE BY THE FACILITY. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-410)

m) THE DEPARTMENT OF PUBLIC HEALTH, WHEN THE BASIS FOR INVOLUNTARY TRANSFER OR DISCHARGE IS OTHER THAN ACTION BY THE DEPARTMENT OF PUBLIC AID WITH RESPECT TO THE TITLE XIX MEDICAID RECIPIENT, SHALL HOLD A HEARING AT THE RESIDENT'S FACILITY NOT LATER THAN TEN ~~10~~ DAYS AFTER A HEARING REQUEST IS FILED, AND RENDER A DECISION WITHIN 14 DAYS AFTER THE FILING OF THE HEARING REQUEST. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-411)

n) THE HEARING BEFORE THE DEPARTMENT PROVIDED UNDER SUBSECTION (m) OF THIS SECTION SHALL BE CONDUCTED AS PRESCRIBED UNDER SECTIONS 3-703 THRU 3-712 OF THE ACT (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 4153-703 through 4153-712). IN DETERMINING WHETHER A TRANSFER OR DISCHARGE IS AUTHORIZED, THE BURDEN OF PROOF IN THIS HEARING RESTS ON THE PERSON REQUESTING THE TRANSFER OR DISCHARGE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-412)

o) IF THE DEPARTMENT DETERMINES THAT A TRANSFER OR DISCHARGE IS AUTHORIZED UNDER SUBSECTION (c) OF THIS SECTION, THE RESIDENT SHALL NOT BE REQUIRED TO LEAVE THE FACILITY BEFORE THE 34th DAY FOLLOWING RECEIPT OF THE NOTICE REQUIRED UNDER SUBSECTION (d) OF THIS SECTION, OR THE 10th DAY FOLLOWING RECEIPT OF THE DEPARTMENT'S DECISION, WHICHEVER IS LATER, UNLESS A CONDITION WHICH WOULD HAVE ALLOWED TRANSFER OR DISCHARGE IN LESS THAN 21 DAYS AS DESCRIBED UNDER SUBSECTIONS (d)(1) AND (2) OF THIS SECTION DEVELOPS IN THE INTERIM. ~~(B-G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-413)



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## Section 390.3300 (continued)

p) THE DEPARTMENT OF PUBLIC AID SHALL CONTINUE TITLE XIX MEDICAID FUNDING DURING THE APPEAL, TRANSFER, OR DISCHARGE PERIOD FOR THOSE RESIDENTS WHO ARE TITLE XIX RECIPIENTS AFFECTED BY SUBSECTION (c) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-414)

q) THE DEPARTMENT MAY TRANSFER OR DISCHARGE ANY RESIDENT FROM ANY FACILITY REQUIRED TO BE LICENSED UNDER THIS ACT WHEN ANY OF THE FOLLOWING CONDITIONS EXIST:

- 1) SUCH FACILITY IS OPERATING WITHOUT A LICENSE; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(a))
- 2) THE DEPARTMENT HAS SUSPENDED, REVOKED OR REFUSED TO RENEW THE LICENSE OF THE FACILITY AS PROVIDED UNDER SECTION 3-119 OF THE ACT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(b))
- 3) THE FACILITY HAS REQUESTED THE AID OF THE DEPARTMENT IN THE TRANSFER OR DISCHARGE OF THE RESIDENT AND THE DEPARTMENT FINDS THAT THE RESIDENT CONSENTS TO TRANSFER OR DISCHARGE; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(c))
- 4) THE FACILITY IS CLOSING OR INTENDS TO CLOSE AND ADEQUATE ARRANGEMENT FOR RELOCATION OF THE RESIDENT HAS NOT BEEN MADE AT LEAST 30 DAYS PRIOR TO CLOSURE; OR (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(d))

5) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS WHICH REQUIRES IMMEDIATE TRANSFER OR DISCHARGE OF THE RESIDENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(e))

r) IN DECIDING TO TRANSFER OR DISCHARGE A RESIDENT FROM A FACILITY UNDER SUBSECTION (q) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER THE LIKELIHOOD OF SERIOUS HARM WHICH MAY RESULT IF THE RESIDENT REMAINS IN THE FACILITY. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-416)

s) THE DEPARTMENT SHALL OFFER TRANSFER OR DISCHARGE AND RELOCATION ASSISTANCE TO RESIDENTS TRANSFERRED OR DISCHARGED UNDER SUBSECTIONS (c) THROUGH (q) OF THIS SECTION INCLUDING INFORMATION ON AVAILABLE ALTERNATIVE PLACEMENTS. RESIDENTS SHALL BE INVOLVED IN PLANNING THE TRANSFER OR DISCHARGE AND SHALL CHOOSE AMONG THE AVAILABLE ALTERNATIVE PLACEMENTS, EXCEPT THAT WHERE AN EMERGENCY MAKES PRIOR RESIDENT INVOLVEMENT IMPOSSIBLE, THE DEPARTMENT MAY MAKE A TEMPORARY

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## Section 390.3300(s) (continued)

PLACEMENT UNTIL A FINAL PLACEMENT CAN BE ARRANGED. RESIDENTS MAY CHOOSE THEIR FINAL ALTERNATIVE PLACEMENT AND SHALL BE GIVEN ASSISTANCE IN TRANSFERRING TO SUCH PLACE. NO RESIDENT MAY BE FORCED TO REMAIN IN A TEMPORARY OR PERMANENT PLACEMENT, WHERE THE DEPARTMENT MAKES OR PARTICIPATES IN MAKING THE RELOCATION DECISION, CONSIDERATION SHALL BE GIVEN TO PROXIMITY TO THE RESIDENT'S RELATIVES AND FRIENDS. THE RESIDENT SHALL BE ALLOWED ~~3~~ THREE VISITS TO POTENTIAL ALTERNATIVE PLACEMENTS PRIOR TO REMOVAL, EXCEPT WHERE MEDICALLY CONTRAINDICATED OR WHERE THE NEED FOR IMMEDIATE TRANSFER OR DISCHARGE REQUIRES REDUCTION IN THE NUMBER OF VISITS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-417)

t) THE DEPARTMENT SHALL PREPARE RESIDENT TRANSFER OR DISCHARGE PLANS TO ASSURE SAFE AND ORDERLY REMOVALS AND PROTECT RESIDENTS' HEALTH, SAFETY, WELFARE AND RIGHTS. IN NONEMERGENCIES AND WHERE POSSIBLE IN EMERGENCIES, THE DEPARTMENT SHALL DESIGN AND IMPLEMENT SUCH PLANS IN ADVANCE OF TRANSFER OR DISCHARGE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-418)

u) THE DEPARTMENT MAY PLACE RELOCATION TEAMS IN ANY FACILITY FROM WHICH RESIDENTS ARE BEING DISCHARGED OR TRANSFERRED FOR ANY REASON, FOR THE PURPOSE OF IMPLEMENTING TRANSFER OR DISCHARGE PLANS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-419)

v) IN ANY TRANSFER OR DISCHARGE CONDUCTED UNDER SUBSECTIONS (q) THROUGH (t) OF THIS SECTION THE DEPARTMENT SHALL:

- 1) PROVIDE WRITTEN NOTICE TO THE FACILITY PRIOR TO THE TRANSFER OR DISCHARGE. THE NOTICE SHALL STATE THE BASIS FOR THE ORDER OF TRANSFER OR DISCHARGE AND SHALL INFORM THE FACILITY OF ITS RIGHT TO AN INFORMAL CONFERENCE PRIOR TO TRANSFER OR DISCHARGE UNDER THIS SECTION, AND ITS RIGHT TO A SUBSEQUENT HEARING UNDER SUBSECTION (x) OF THIS SECTION. IF A FACILITY DESIRES TO CONTEST A NONEMERGENCY TRANSFER OR DISCHARGE, PRIOR TO TRANSFER OR DISCHARGE IT SHALL, WITHIN FOUR ~~42~~ WORKING DAYS AFTER RECEIPT OF THE NOTICE, SEND A WRITTEN REQUEST FOR AN INFORMAL CONFERENCE TO THE DEPARTMENT. THE DEPARTMENT SHALL, WITHIN FOUR ~~42~~ WORKING DAYS FROM THE RECEIPT OF THE REQUEST, HOLD AN INFORMAL CONFERENCE IN THE COUNTY IN WHICH THE FACILITY IS LOCATED. FOLLOWING THIS CONFERENCE, THE DEPARTMENT MAY AFFIRM, MODIFY OR OVERRULE ITS PREVIOUS DECISION. EXCEPT IN AN EMERGENCY, TRANSFER OR DISCHARGE MAY NOT BEGIN UNTIL THE PERIOD FOR REQUESTING A CONFERENCE HAS PASSED OR, IF A CONFERENCE IS REQUESTED, UNTIL AFTER A CONFERENCE HAS BEEN HELD; AND (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-420(a))

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## Section 390.3300(v) (continued)

2) PROVIDE WRITTEN NOTICE TO ANY RESIDENT TO BE REMOVED, TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE, PRIOR TO THE REMOVAL. THE NOTICE SHALL STATE THE REASON FOR WHICH TRANSFER OR DISCHARGE IS ORDERED AND SHALL INFORM THE RESIDENT OF THE RESIDENT'S RIGHT TO CHALLENGE THE TRANSFER OR DISCHARGE UNDER SUBSECTION (x) OF THIS SECTION. THE DEPARTMENT SHALL HOLD AN INFORMAL CONFERENCE WITH THE RESIDENT OR THE RESIDENT'S REPRESENTATIVE PRIOR TO TRANSFER OR DISCHARGE AT WHICH THE RESIDENT OR THE REPRESENTATIVE MAY PRESENT ANY OBJECTIONS TO THE PROPOSED TRANSFER OR DISCHARGE PLAN OR ALTERNATIVE PLACEMENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-420(b))

W) IN ANY TRANSFER OR DISCHARGE CONDUCTED UNDER SUBSECTION (q)(5) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE FACILITY AND ANY RESIDENT TO BE REMOVED THAT AN EMERGENCY HAS BEEN FOUND TO EXIST AND REMOVAL HAS BEEN ORDERED, AND SHALL INVOLVE THE RESIDENTS IN REMOVAL PLANNING IF POSSIBLE. FOLLOWING EMERGENCY REMOVAL, THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO THE FACILITY, TO THE RESIDENT, TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE, OF THE BASIS FOR THE FINDING THAT AN EMERGENCY EXISTED AND OF THE RIGHT TO CHALLENGE REMOVAL UNDER SUBSECTION (x) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-421)

X) WITHIN ~~10~~ TEN DAYS FOLLOWING TRANSFER OR DISCHARGE, THE FACILITY OR ANY RESIDENT TRANSFERRED OR DISCHARGED MAY SEND A WRITTEN REQUEST TO THE DEPARTMENT FOR A HEARING UNDER SECTION 3-703 OF THE ACT (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-703) TO CHALLENGE THE TRANSFER OR DISCHARGE. THE DEPARTMENT SHALL HOLD THE HEARING WITHIN 30 DAYS OF RECEIPT OF THE REQUEST. WHERE A CHALLENGE IS BY A RESIDENT, THE HEARING SHALL BE HELD AT A LOCATION CONVENIENT TO THE RESIDENT. IF THE FACILITY PREVAILS, IT MAY FILE A CLAIM AGAINST THE STATE UNDER THE "COURT OF CLAIMS ACT" FOR PAYMENTS OF LESS EXPENSES SAVED AS A RESULT OF THE TRANSFER OR DISCHARGE. NO RESIDENT TRANSFERRED OR DISCHARGED MAY BE HELD LIABLE FOR THE CHARGE FOR CARE WHICH WOULD HAVE BEEN MADE HAD THE RESIDENT REMAINED IN THE FACILITY. IF A RESIDENT PREVAILS, THE RESIDENT MAY FILE A CLAIM AGAINST THE STATE UNDER THE "COURT OF CLAIMS ACT" (Ill. Rev. Stat. ~~1985~~ 1987, ch. 37, pars. 439.1 et seq.) FOR ANY EXCESS EXPENSES DIRECTLY CAUSED BY THE ORDER TO TRANSFER OR DISCHARGE. THE DEPARTMENT SHALL ASSIST THE RESIDENT IN RETURNING TO THE FACILITY IF ASSISTANCE IS REQUESTED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-422)

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## Section 390.3300 (continued)

Y) ANY OWNER OF A FACILITY LICENSED UNDER THIS ACT SHALL GIVE 90 DAYS NOTICE PRIOR TO VOLUNTARILY CLOSING A FACILITY OR CLOSING ANY PART OF A FACILITY, OR PRIOR TO CLOSING ANY PART OF A FACILITY IF CLOSING SUCH PART WILL REQUIRE THE TRANSFER OR DISCHARGE OF MORE THAN ~~10%~~ TEN PERCENT OF THE RESIDENTS. SUCH NOTICE SHALL BE GIVEN TO THE DEPARTMENT, TO ANY RESIDENT WHO MUST BE TRANSFERRED OR DISCHARGED, TO THE RESIDENT'S REPRESENTATIVE, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE. NOTICE SHALL STATE THE PROPOSED DATE OF CLOSING AND THE REASON FOR CLOSING. THE FACILITY SHALL OFFER TO ASSIST THE RESIDENT IN SECURING AN ALTERNATIVE PLACEMENT AND SHALL ADVISE THE RESIDENT ON AVAILABLE ALTERNATIVES. WHERE THE RESIDENT IS UNABLE TO CHOOSE AN ALTERNATE PLACEMENT AND IS NOT UNDER GUARDIANSHIP, THE DEPARTMENT SHALL BE NOTIFIED OF THE NEED FOR RELOCATION ASSISTANCE. THE FACILITY SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS UNTIL THE DATE OF CLOSING, INCLUDING THOSE RELATED TO TRANSFER OR DISCHARGE OF RESIDENTS. THE DEPARTMENT MAY PLACE A RELOCATION TEAM IN THE FACILITY AS PROVIDED UNDER SUBSECTION (u) OF THIS SECTION. (A. B. ~~6~~) (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-423)

(Source: Amended at 13 Ill. Reg.     , effective     )

## Section 390.3310 Complaint Procedures

- a) A RESIDENT SHALL BE PERMITTED TO PRESENT GRIEVANCES ON BEHALF OF HIMSELF AND OTHERS TO THE ADMINISTRATOR, THE LONG-TERM CARE FACILITY ADVISORY BOARD, THE RESIDENTS' ADVISORY COUNCIL, STATE GOVERNMENTAL AGENCIES OR OTHER PERSONS WITHOUT THREAT OF DISCHARGE OR REPRISAL IN ANY FORM OR MANNER WHATSOEVER. ~~(6)~~
- b) THE FACILITY ADMINISTRATOR SHALL PROVIDE ALL RESIDENTS OR THEIR REPRESENTATIVES WITH THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE APPROPRIATE STATE GOVERNMENTAL OFFICE WHERE COMPLAINTS MAY BE LODGED. ~~(6)~~
- c) A PERSON WHO BELIEVES THAT THE ACT OR A RULE PROMULGATED UNDER THE ACT MAY HAVE BEEN VIOLATED MAY REQUEST AN INVESTIGATION. THE REQUEST MAY BE SUBMITTED TO THE DEPARTMENT IN WRITING, BY TELEPHONE, OR BY PERSONAL VISIT. AN ORAL COMPLAINT SHALL BE REDUCED TO WRITING BY THE DEPARTMENT.
- d) THE SUBSTANCE OF THE COMPLAINT SHALL BE PROVIDED IN WRITING TO THE LICENSEE, OWNER OR ADMINISTRATOR NO EARLIER THAN AT THE COMMENCEMENT OF THE ON-SITE INSPECTION OF THE FACILITY WHICH TAKES PLACE PURSUANT



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## Section 390.3310(d) (continued)

## TO THE COMPLAINT.

- e) THE DEPARTMENT SHALL NOT DISCLOSE THE NAME OF THE COMPLAINANT UNLESS THE COMPLAINANT CONSENTS IN WRITING TO THE DISCLOSURE OR THE INVESTIGATION RESULTS IN A JUDICIAL PROCEEDING, OR UNLESS DISCLOSURE IS ESSENTIAL TO THE INVESTIGATION. THE COMPLAINANT SHALL BE GIVEN THE OPPORTUNITY TO WITHDRAW THE COMPLAINT BEFORE DISCLOSURE. UPON THE REQUEST OF THE COMPLAINANT, THE DEPARTMENT MAY PERMIT THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT TO ACCOMPANY THE PERSON MAKING THE ON-SITE INSPECTION OF THE FACILITY.
- f) UPON RECEIPT OF A COMPLAINT, THE DEPARTMENT SHALL DETERMINE WHETHER THE ACT OR A RULE PROMULGATED UNDER THE ACT HAS BEEN OR IS BEING VIOLATED. THE DEPARTMENT SHALL INVESTIGATE ALL COMPLAINTS ALLEGING ABUSE OR NEGLECT WITHIN ~~7~~ SEVEN DAYS AFTER THE RECEIPT OF THE COMPLAINT EXCEPT THE COMPLAINTS OF ABUSE OR NEGLECT WHICH INDICATE THAT A RESIDENT'S LIFE OR SAFETY IS IN IMMINENT DANGER SHALL BE INVESTIGATED WITH 24 HOURS AFTER RECEIPT OF THE COMPLAINT. ALL OTHER COMPLAINTS SHALL BE INVESTIGATED WITHIN 30 DAYS AFTER THE RECEIPT OF THE COMPLAINT. ALL COMPLAINTS SHALL BE CLASSIFIED AS "VALID" OR "INVALID". FOR ANY COMPLAINT CLASSIFIED AS "VALID", THE DEPARTMENT MUST DETERMINE WITHIN 30 WORKING DAYS IF ANY RULE OR PROVISION OF THIS ACT HAS BEEN OR IS BEING VIOLATED.
- g) UPON THE REQUEST OF A RESIDENT OR COMPLAINANT, THE DEPARTMENT MAY PERMIT THE RESIDENT OR COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT TO ACCOMPANY THE PERSON MAKING THE ON-SITE INSPECTION OF THE FACILITY PURSUANT TO THE COMPLAINT.
- h) IN ALL CASES, THE DEPARTMENT SHALL INFORM THE COMPLAINANT OF ITS FINDINGS WITHIN ~~10~~ TEN DAYS OF ITS DETERMINATION UNLESS OTHERWISE INDICATED BY THE COMPLAINANT, AND THE COMPLAINANT MAY DIRECT THE DEPARTMENT TO SEND A COPY OF SUCH FINDINGS TO ANOTHER PERSON. THE DEPARTMENT'S FINDINGS MAY INCLUDE CONTENTS OR DOCUMENTATION PROVIDED BY EITHER THE COMPLAINANT OR THE LICENSEE PERTAINING TO THE COMPLAINT. THE DEPARTMENT SHALL ALSO NOTIFY THE FACILITY OF SUCH FINDINGS WITHIN ~~10~~ TEN DAYS OF THE DETERMINATION, BUT THE NAME OF THE COMPLAINANT OR RESIDENTS SHALL NOT BE DISCLOSED IN THIS NOTICE TO THE FACILITY. THE NOTICE OF SUCH FINDINGS SHALL INCLUDE A COPY OF THE WRITTEN DETERMINATION; THE CORRECTION ORDER, IF ANY; THE INSPECTION REPORT; OR WARNING NOTICE, IF ANY; AND THE STATE LICENSEURE ON WHICH THE VIOLATION IS LISTED.
- i) A WRITTEN DETERMINATION, CORRECTION ORDER, OR WARNING NOTICE CONCERNING A COMPLAINT SHALL BE AVAILABLE FOR PUBLIC INSPECTION, BUT

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## Section 390.3310(h) (continued)

## THE NAME OF THE COMPLAINANT OR RESIDENT SHALL NOT BE DISCLOSED WITHOUT HIS CONSENT.

- j) A COMPLAINANT WHO IS DISSATISFIED WITH THE DETERMINATION OR INVESTIGATION BY THE DEPARTMENT MAY REQUEST A HEARING UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~. THE FACILITY SHALL BE GIVEN NOTICE OF ANY SUCH HEARING AND MAY PARTICIPATE IN THE HEARING AS A PARTY. IF A FACILITY REQUESTS A HEARING UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~ WHICH CONCERNS A MATTER COVERED BY A COMPLAINT, THE COMPLAINANT SHALL BE GIVEN WRITTEN NOTICE AND MAY PARTICIPATE IN THE HEARING AS A PARTY. A REQUEST FOR A HEARING BY EITHER A COMPLAINANT OR A FACILITY SHALL BE SUBMITTED IN WRITING TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE MAILING OF THE DEPARTMENT'S FINDINGS AS DESCRIBED IN SUBSECTION (i) OF THIS SECTION ~~ABOVE~~. UPON RECEIPT OF THE REQUEST THE DEPARTMENT SHALL CONDUCT A HEARING AS PROVIDED UNDER SUBSECTION (i) OF THIS SECTION ~~ABOVE~~.
- k) ANY PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT OR A FACILITY RENDERED IN A PARTICULAR CASE WHICH AFFECTS THE LEGAL RIGHTS, DUTIES OR PRIVILEGES CREATED UNDER THIS ACT MAY HAVE SUCH DECISION REVIEWED IN ACCORDANCE WITH SECTIONS 3-703 THRU 3-712 OF THE ACT.
- l) WHEN THE DEPARTMENT FINDS THAT A PROVISION OF ARTICLE II OF THE ACT REGARDING RESIDENTS' RIGHTS HAS BEEN VIOLATED WITH REGARD TO A PARTICULAR RESIDENT, THE DEPARTMENT SHALL ISSUE AN ORDER REQUIRING THE FACILITY TO REIMBURSE THE RESIDENT FOR INJURIES INCURRED, OR \$100, WHICHEVER IS GREATER.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 390.3320 Confidentiality
- a) THE DEPARTMENT, THE FACILITY AND ALL OTHER PUBLIC OR PRIVATE AGENCIES SHALL RESPECT THE CONFIDENTIALITY OF A RESIDENT'S RECORD AND SHALL NOT DIVULGE OR DISCLOSE THE CONTENTS OF A RECORD IN A MANNER WHICH IDENTIFIES A RESIDENT, EXCEPT UPON A RESIDENT'S DEATH TO A RELATIVE OR GUARDIAN, OR UNDER JUDICIAL PROCEEDINGS. THIS REGULATION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF A RESIDENT OR A RESIDENT'S REPRESENTATIVE TO INSPECT OR COPY THE RESIDENT'S RECORDS.
- b) CONFIDENTIAL MEDICAL, SOCIAL, PERSONAL, OR FINANCIAL INFORMATION IDENTIFYING A RESIDENT SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION IN A MANNER WHICH IDENTIFIES A RESIDENT. (B-~~6~~-)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 390.3330 Facility Implementation

- a) THE FACILITY SHALL ESTABLISH WRITTEN POLICIES AND PROCEDURES TO IMPLEMENT THE RESPONSIBILITIES AND RIGHTS PROVIDED IN THIS SUBPART. THE POLICIES SHALL INCLUDE THE PROCEDURE FOR THE INVESTIGATION AND RESOLUTION OF RESIDENT COMPLAINTS UNDER THE ACT. THE POLICIES SHALL BE CLEAR AND UNAMBIGUOUS AND SHALL BE AVAILABLE FOR INSPECTION BY ANY PERSON. A SUMMARY OF THE POLICIES AND PROCEDURES, PRINTED IN NOT LESS THAN 12 POINT TYPE, SHALL BE DISTRIBUTED TO EACH RESIDENT AND REPRESENTATIVE. ~~(C)~~
- b) The facility shall provide copies of these policies and procedures upon request to next of kin, sponsoring agencies representative payees and the public. ~~(C)~~
- c) EACH RESIDENT SHALL BE GIVEN A WRITTEN SUMMARY OF THE RIGHTS AND RESPONSIBILITIES ENUMERATED IN PART I OF ARTICLE II OF THE ACT AT THE TIME OF ADMISSION TO A FACILITY OR AS SOON THEREAFTER AS THE CONDITION OF THE RESIDENT PERMITS, BUT IN NO EVENT LATER THAN 48 HOURS AFTER ADMISSION. IF A RESIDENT IS UNABLE TO READ SUCH WRITTEN SUMMARY, IT SHALL BE READ TO THE RESIDENT IN A LANGUAGE THE RESIDENT UNDERSTANDS. IN THE CASE OF A MINOR OR A PERSON HAVING A GUARDIAN, BOTH THE RESIDENT AND THE PARENT OR GUARDIAN SHALL BE FULLY INFORMED OF THESE RIGHTS AND RESPONSIBILITIES. ~~(C)~~
- d) The resident, resident's representative, guardian, or parent of a minor resident shall acknowledge in writing the receipt from the facility of a copy of all resident rights set forth in this Subpart and a copy of all facility policies implementing such rights. ~~(C)~~
- e) THE FACILITY SHALL ENSURE THAT ITS STAFF IS FAMILIAR WITH AND OBSERVES THE RIGHTS AND RESPONSIBILITIES ENUMERATED IN THE ACT AND THIS PART. ~~(B--C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART P: DAY CARE PROGRAMS

## Section 390.3510 Day Care in Long-Term Care Facilities

- a) For a licensed long-term care facility to be approved for a day care program, it is necessary that the facility meet all licensing requirements for its level of care.
- b) In addition, the following criteria must also be met:

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## Section 390.3510(b) (continued)

- 1) Staff: Sufficient and satisfactory personnel shall be on duty to provide services that meet the total needs of the day care residents, without detracting from the services given to the residents in the facility in accordance with the various staffing requirements of this Part.
- 2) Space:
  - A) Dining - Adequate space and equipment available to accommodate the additional residents in accordance with Subparts I and K and Sections 390.2670 or 390.2970 of this Part.
  - B) Activity Area - Large enough area to accommodate capacity of facility, plus additional "Day Care" residents in accordance with Sections 390.2670 or 390.2970 of this Part.
  - C) Rest Area - A definite area should be designated as an area available for the Day Care resident to nap or rest. This area should be equipped with beds (roll-aways can be used) or cots and portable screens. There should also be adequate space available for personal items storage for the number of Day Care residents being cared for. Suggested areas which can be utilized for the Day Care resident could include:
    - i) Facilities having more than one communal area (such as a lounge, ~~and sunporch--etc--~~) could designate one of these for rest areas;
    - ii) Non-occupied rooms (no one assigned to these rooms);
    - iii) Toilets - Adequate number to accommodate extra number of residents in accordance with Sections 390.2660 or 390.2960 of this Part.
- 3) Records:
  - A) A statement by a physician who has evaluated the resident within the last 30 days stating the resident is free of communicable and infectious disease, and indicating any medication -and/or-- or treatments and diet needed by the resident during the period of time in the facility. Permission should also be granted in this statement for the resident to participate in activities with any



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## Section 390.3510(b)(3)(A) (continued)

contraindications or limitations.

- B) Medication and Treatment record - Required for any medications or treatments given during resident stay in the facility. (Medications must be in original containers and properly labeled.)
- C) "Face" sheet or admission sheet - Containing all pertinent information necessary for the "safe keeping" of the resident such as complete name; address, telephone number, social security number, medicare number, and age of resident; name, business, and home address, and telephone number of person to notify in an emergency; name of family physician; name of physician to call in an emergency.
- D) Incident Report - in case of medication error or accident of any kind.
- 4) There must be written policies covering "Day Care" Service in the facility which explain implementation of this Section.
- 5) Permission for a Day Care Program requires identifying the services of the facility that will be used in the program. Examples: Activity area, dining area, administering of medications by nursing staff, physical therapy, speech, and social services ~~etc.~~.
- 6) The maximum number of "Day Care" residents served shall be reported with the application under Section 390.620 of this Part.
- 7) The facility should consider the following in developing and providing Day Care Programs:
- A) Use of house or advisory physician for emergencies;
  - B) Insurance coverage;
  - C) Signed agreement with family or responsible individual;
  - D) Permission to be involved in activities outside of the facility (in the community);
  - E) Attendance record; and

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## Section 390.3510(b)(7) (continued)

- F) Facility should be aware of method and time of pick-up and delivery of the Day Care residents.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)





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To implement this change, the Department is proposing the following actions which were adopted on an emergency basis effective October 24, 1988. The Notice of Emergency Amendments appeared in the Illinois Register on November 14, 1988, at 12 Ill. Reg. 18477.

1. Deleting all of the current designations of level "C" violations from the entire text of the rules.
2. Expanding the provisions in Section 300.272 concerning the determination to issue a notice of violation to also include administrative warnings.
3. Eliminating the language concerning level "C" violations in Section 300.274 which concerns the determination of the level of a violation.
4. Adding a new Section 300.277 to provide procedures for the issuance of administrative warnings.
5. Eliminating the provisions concerning the assessment of penalties for ten or more uncorrected level "C" violations from Section 300.282(e).
6. Adding a definition of "administrative warning" and deleting the definition of "type C violation" in Section 300.330.

Additional statutory changes included in Public Act 85-1378, and changes included in Public Act 85-1183 (House Bill 4172), which took effect on August 13, 1988, were also adopted on an emergency basis and are included in these proposed amendments. These changes include amendments to provisions concerning:

1. Submission of ownership information [Section 300.250(a)].
2. Contents of the quarterly list of facilities against which the Department is taking some action [Section 300.290(a)].
3. Basis and procedures for involuntary transfer or discharge [Section 300.3300(c)].
4. Procedure for hearings requested by persons who file complaints against a facility [Section 300.3310(j)].

#### Additional Statutory Changes

Additional statutory changes included in Public Act 85-968 (Senate Bill 1322), which took effect on December 9, 1987, are also being implemented in these proposed amendments. These changes include amendments to reflect the statutory provisions concerning the length of the license

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period [Section 300.110(b)] and the appointment of monitors [Section 300.270(a)].

In addition, repeal of Sections 300.260(d) and (g) is being proposed, since the parallel sections of the statute, Sections 3-314 and 3-317, were repealed by Public Act 83-1530, which became effective July 1, 1985. Repeal of these provisions of the rules will be consistent with the statute.

#### Physical Examinations and Tuberculin Skin Tests

Changes in Sections 300.650 and 300.1010 and the addition of new Sections 300.655 and 300.1025 are being proposed to clarify the rules on employee physical examinations and tuberculin skin tests for employees and residents. The changes will eliminate the requirement for annual physical examinations for employees, since these examinations are not effective in protecting the health of the employees or residents. The provisions concerning the initial physical examination of employees are being separated into the new Section 300.655 and the procedures for conducting tuberculin skin tests are being separated into the new Section 300.1025. Section 300.1010, which concerns medical care for residents is being amended to reference the tuberculin test procedures which are being relocated to Section 300.1025. These clarifying changes are consistent with the changes in the communicable disease policy requirements which are included in the proposed amendments to Section 300.1020 which were published in the Illinois Register on August 19, 1988, at 12 Ill. Reg. 13581.

#### Nursing Assistant Training

Proposed amendments to Sections 300.650 and 300.660 are part of an effort by the Department to consolidate into a new Part 395 the current provisions concerning the training of nursing assistants. Most of the current text of Section 300.660 is being replaced and relocated into the new Part 395. The remaining provisions of Section 300.660 are limited to the facilities' responsibility to insure that employed aides are qualified and have completed the required training. The provisions which concern the use of student interns are being incorporated into Section 300.650. No major substantive changes are being made in the actual content of these rules. The proposed adoption of Part 395 appeared in an earlier issue of the Illinois Register. The consolidation of the training program rules in Part 395 should facilitate public understanding of the requirements for nursing assistant training programs.

#### Nursing and Personal Care Services

Changes in Section 300.1210 are being proposed to clarify the

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requirements for nursing and personal care services. These proposed amendments eliminate many of the recommendations which are currently contained in this Section and update the language of the requirements to insure consistent enforcement of the nursing and personal care requirements. Section 300.1220(b)(10), which required a level "B" violation for violations of this Section, is also being proposed for repeal. This provision is unnecessarily restrictive and is adequately covered by the rules on the determination of levels of violations.

#### Specialized Facilities for the Mentally Ill

These proposed amendments include the repeal of Subpart Q (Sections 300.3410 through 300.3630). Due to funding constraints of the Department of Mental Health and Developmental Disabilities no facilities have been licensed for licensure and operation under these rules since their adoption in 1985. A new set of rules is being proposed by the Department for the licensure of facilities which specialize in the care of persons with chronic mental illness. These rules, which will be located in Part 380, will govern these facilities which will be identified as Residential Rehabilitation Facilities. These proposed rules appear elsewhere in this issue of the Illinois Register. On that basis, Subpart Q of these rules is no longer needed.

#### Additional Substantive Changes

The definition of "person in need of mental treatment" in Section 300.330 is being deleted and the substance of this definition is being added to the provision on admission policies in Section 300.620(c)(1). Changes in this provision are intended to insure that the provision is consistent with the language of the Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. 1987, ch. 91 1/2, par. 1-100 et seq.) and with the policies of the Department of Mental Health and Developmental Disabilities.

The definition of "qualified mental retardation professional" in Section 300.330 is being amended to conform to recent changes in the rules of the Health Care Financing Administration governing Medicaid program certification of Intermediate Care Facilities for the Mentally Retarded (42 CFR 483). The changes in these federal rules were adopted effective October 1, 1988. The proposed amendments to this definition will insure that the definition is consistent with the federal rules.

The definition of safety device in Section 300.330 is being revised to eliminate the reference to a minimum width of six inches in the example of a wide band which is used as a safety device. The change will clarify the definition.

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Changes in Section 300.830(c) are being proposed to insure that the general consultation requirements conform to the requirements for activity program consultation which are included in Section 300.1410(c). The activity program consultation requirements in Section 300.1410(c) were changed in amendments which were adopted effective December 24, 1987.

The definition of "utensil sanitizer" in Section 300.330 is being replaced with a definition of "sanitization" to insure that chemical sanitizers are included, as well as steam sanitizers. The requirements for utensil sanitizers in Sections 300.2430(b) and 300.2860(g) are also being amended to reflect this updated policy. The requirement for mixing valves in Section 300.2930(c)(6) is also being revised to reflect alternate ways in which the intent of this requirement can be met. Both of these changes will eliminate the need for numerous waivers which have been granted and recognize the changing technology in these areas.

Footboard requirements in Section 300.2410(a) and shower stall curb requirements in Section 300.3060(e)(4) are being eliminated as no longer necessary. These changes will insure that the rules reflect current enforcement policies of the Department, since numerous waivers have been granted from these requirements.

A provision which was added to Section 300.3060(b)(1) effective December 24, 1987, concerning waivers of bedroom sizes is being amended to correct and clarify the wording of the provision.

#### Reference Corrections and Updates

Throughout the text of these rules, references to the Nursing Home Care Act are being updated. These changes reflect the changes in the Act and the latest edition of the Illinois Revised Statutes.

Section 300.340, which contains a list of all of the materials incorporated and referenced in these rules is being updated. Statutory references in this Section have been corrected and updated. In addition, references are being added to this Section to reflect the changes in the communicable disease policy requirements which are included in the proposed amendments to Section 300.1020 which were published in the Illinois Register on August 19, 1988, at 12 Ill. Reg. 13581.

Section 300.2110 is being amended to eliminate the reference to the "latest edition of" the Department's food service sanitation rules. This reference is being replaced with the correct citation.

References to the Capital Development Board's rules on handicapped accessibility to buildings are also being updated. The title and content of these rules were recently changed based on a comprehensive revision of



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the statute which authorized the Board to adopt these rules. These references are being updated in Sections 300.340(a)(4)(C), 300.2820(a)(1)(B), 300.2900(a)(6), 300.2900(b)(4), and 300.3020(e)(2).

References to various units of the Department which had responsibility for the licensure of alcoholism treatment programs are being updated in Section 300.300. As amended, these provisions will refer to the Department of Alcoholism and Substance Abuse which assumed responsibility for the licensure of alcoholism treatment programs in July 1988.

Additional Editorial Changes

The proposed amendments eliminate the use of the phrase "his/her" throughout the rules. The elimination of this phrase is accomplished by replacing the provisions in the plural, rather than the singular, or by replacing the pronoun with the subject, such as "resident's" or "employee's." The term "etc." is also eliminated throughout the rules. This term is usually unnecessary and may cause confusion by implying that the Department may impose additional requirements.

The proposed amendments also eliminate the use of "(s)," "(es)," and "(ies)" at the end of words to indicate singular or plural. These changes should clarify the application of the provisions. The phrase "and/or" is also eliminated in the proposed amendments. The proposed amendments clarify the provisions which use this term by clearly indicating whether either or both is intended. The proposed amendments also revise the use of numbers throughout the rules for consistency. Numbers of ten or less are written out in the rules, while numbers greater than ten are indicated by digits. The use of both forms of numbers at each occurrence is eliminated as unnecessary.

The Department believes that there will be little, if any, economic effect of these proposed amendments on the regulated public. The elimination of some requirements may reduce costs for some regulated facilities, although such reductions are likely to be minimal.

The Department anticipates that the amendments will be adopted prior to the expiration of the emergency amendments on March 24, 1989.

6) Will these Proposed Amendments Replace an Emergency Rule Currently in Effect? Yes.

These proposed amendments include emergency amendments which were adopted effective October 24, 1988. The Notice of Emergency Amendments appeared in the Illinois Register on November 14, 1988, at 12 Ill. Reg. 18477.

7) Does this Rulemaking contain an Automatic Repeal Date? No.

- 8) Do these Proposed Amendments Contain Incorporations By Reference? No.  
9) Are there any other Proposed Amendments Pending on this Part? Yes.

Sections	Proposed Action	Ill. Reg. Citation
300.620	Amendments	12 Ill. Reg. 13581 (August 19, 1988)
300.1020	Amendments	12 Ill. Reg. 13581 (August 19, 1988)
300.1030	Amendments	12 Ill. Reg. 13581 (August 19, 1988)

10) Statement of Statewide Policy Objectives:

This rulemaking neither creates nor expands a state mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Proposed Rulemaking:

Interested persons may present their comments concerning these rules by writing to Robert John Kane, Division of Governmental Affairs, Illinois Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761, within 45 days after this edition of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Administrative Procedure Act, any small business may present their comments in writing to Robert John Kane at the above address.

Any small business (as defined in Section 3.10 of the Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Date Rule was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

B) Type of Small Businesses Affected:

Long-term care facilities

C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

No additional reporting, bookkeeping or other procedures are required for compliance.

D) Types of Professional Skills Necessary for Compliance:

No additional professional skills are necessary for compliance.

The full text of the Proposed Amendments begins on the next page:TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER C: LONG-TERM CARE FACILITIES

## PART 300

~~MINIMUM STANDARDS CLASSIFICATION AND LICENSURE OF~~ SKILLED NURSING  
~~FACILITIES~~ AND INTERMEDIATE CARE FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
300.110	General Requirements
300.120	Application for License
300.130	Licensee
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of an Initial License Due to a Change of Ownership
300.160	Issuance of a Renewal License
300.165	Criteria for Adverse License Actions
300.170	Denial of Initial License
300.175	Denial of Renewal of License
300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Issuance of Conditional Licenses
300.270	Monitor and Receivership
300.272	Determination to Issue a Notice of Violation or Administrative Warning
300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties
300.288	Reduction or Waiver of Penalties
300.290	Quarterly List of Violators
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department may Survey Facilities Formerly Licensed
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials



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SUBPART B: ADMINISTRATION

300.510	Administrator
300.610	Resident Care Policies
300.620	Admission and Discharge Policies
300.630	Contract Between Resident and Facility
300.640	Residents' Advisory Council
300.650	Personnel Policies
300.655	Initial Health Evaluation for Employees
300.660	Nursing Assistants <del>Basic Nursing Assistant Training Program</del>
300.670	Disaster Preparedness
300.680	Restraints and Safety Devices
300.690	Serious Incidents and Accidents

SUBPART D: PERSONNEL

300.810	General
300.820	Categories of Personnel
300.830	Consultation Services
300.840	Personnel Policies
300.1010	SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS
300.1020	Medical Care Policies
300.1025	Communicable Disease Policies
300.1030	Tuberculin Skin Test Procedures
300.1040	Medical Emergencies
300.1050	Behavior Emergencies
	Dental Standards

SUBPART F: NURSING AND PERSONAL CARE

300.1210	General Requirements for Nursing and Personal Care
300.1220	Director of Nursing Service/Health Services Supervisor and Assistant Director of Nursing Service/Health Services Supervisor
300.1230	Staffing
300.1240	Additional requirements

SUBPART G: RESIDENT CARE SERVICES

300.1410	Activity Program
300.1420	Specialized Rehabilitation Services
300.1430	Work Programs

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SUBPART H: MEDICATIONS

300.1610	Medication Policies and Procedures
300.1620	Conformance With Physician's Orders
300.1630	Administration of Medication
300.1640	Labeling and Storage of Medications
300.1650	Control of Medications
300.1810	SUBPART I: RESIDENT AND FACILITY RECORDS
300.1820	Resident Record Requirements
300.1830	Content of Medical Records
300.1840	Records Pertaining to Residents' Property
300.1850	Retention and Transfer of Resident Records
300.1860	Other Resident Record Requirements
300.1870	Staff Responsibility for Medical Records
300.1880	Retention of Facility Records
	Other Facility Record Requirements

SUBPART J: FOOD SERVICE

300.2010	Director of Food Services
300.2020	Dietary Staff in Addition to Director of Food Services
300.2030	Hygiene of Dietary Staff
300.2040	Diet Orders
300.2050	Adequacy of Diet and Meal Pattern
300.2060	Therapeutic Diets
300.2070	Scheduling Meals
300.2080	Menu Planning
300.2090	Food Preparation and Service
300.2100	Food Handling Sanitation
300.2110	Kitchen Equipment, Utensils, and Supplies

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

300.2210	Maintenance
300.2220	Housekeeping
300.2230	Laundry Services
300.2410	SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES
300.2420	Furnishings
300.2430	Equipment and Supplies
	Sterilization of Equipment and Supplies

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## SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

300.2610 Codes  
300.2620 Water Supply  
300.2630 Sewage Disposal  
300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS  
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

300.2810 Applicability of these Standards  
300.2820 Codes and Standards  
300.2830 Preparation of Drawings and Specifications  
300.2840 Site  
300.2850 Administration and Public Areas  
300.2860 Nursing Unit  
300.2870 Dining, Living, Activities Rooms ~~(c)~~  
300.2880 Therapy and Personal Care  
300.2890 Service Departments  
300.2900 General Building Requirements ~~Building General~~  
300.2910 Structural  
300.2920 Mechanical Systems  
300.2930 Plumbing Systems  
300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS  
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

300.3010 Applicability  
300.3020 Codes and Standards  
300.3030 Preparation of Drawings and Specifications  
300.3040 Site  
300.3050 Administration and Public Areas  
300.3060 Nursing Unit  
300.3070 Living, Dining, Activities Rooms  
300.3080 Treatment and Personal Care  
300.3090 Service Departments  
300.3100 General Building Requirements ~~Building General~~  
300.3110 Structural  
300.3120 Mechanical Systems  
300.3130 Plumbing Systems  
300.3140 Electrical Requirements

## SUBPART P: RESIDENT'S RIGHTS

300.3210 General  
300.3220 Medical and Personal Care Program

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300.3230 Restraints  
300.3240 Abuse and Neglect  
300.3250 Communication and Visitation  
300.3260 Residents' Funds  
300.3270 Residents' Advisory Council  
300.3280 Contract With Facility  
300.3290 Private Right of Action  
300.3300 Transfer ~~and~~ or Discharge  
300.3310 Complaint Procedures  
300.3320 Confidentiality  
300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL (Repealed)

300.3410 Application of Other Divisions of These Minimum Standards, Rules and Regulations (Repealed)  
300.3420 Administrator (Repealed)  
300.3430 Policies (Repealed)  
300.3440 Personnel (Repealed)  
300.3450 Resident Living Services Medical and Dental Care (Repealed)  
300.3460 Resident Services Program (Repealed)  
300.3470 Psychological Services (Repealed)  
300.3480 Social Services (Repealed)  
300.3490 Recreational and Activities Services (Repealed)  
300.3500 Individual Treatment Plan (Repealed)  
300.3510 Health Services (Repealed)  
300.3520 Medical Services (Repealed)  
300.3530 Dental Services (Repealed)  
300.3540 Optometric Services (Repealed)  
300.3550 Audiometric Services (Repealed)  
300.3560 Podiatric Services (Repealed)  
300.3570 Occupational Therapy Services (Repealed)  
300.3580 Nursing and Personal Care (Repealed)  
300.3590 Resident Care Services (Repealed)  
300.3600 Record Keeping (Repealed)  
300.3610 Food Service (Repealed)  
300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)  
300.3630 Design and Construction Standards (New and Existing Facilities) (Repealed)

## SUBPART R: DAYCARE PROGRAMS

300.3710 Day Care in Long-Term Care Facilities

## APPENDIX A

Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities



APPENDIX B Classification of Distinct Part of a Facility for Different Levels of Service

- APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights
- APPENDIX D Forms for Day Care in Long-Term Care Facilities
- APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation
- TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
- TABLE B Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
- TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
- TABLE D Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Reform Act of 1979 (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4151-101 et seq.)

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

NOTE: Italics and capitalization denote statutory language.

SUBPART A: GENERAL PROVISIONS

Section 300.110 General Requirements

- a) These Minimum Standards apply to the operator/licensee of facilities, or distinct parts thereof, that are to be licensed and classified to provide intermediate care ~~and/or~~ or skilled nursing care.  
Any license issued and in effect prior to March 1, 1980, pursuant to the "Nursing homes, sheltered care homes, and homes for the aged Act" (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 35.16 et seq.) shall remain valid and subject to the terms and conditions of the "Nursing Home Care ~~Reform~~ Act ~~of 1979~~" (the Act) (Ill. Rev. Stat. 1987 ~~1983~~, ch. 111 1/2, par. 4151-101 et seq.) and all regulations promulgated thereunder until the expiration date shown on the face of such license.

- b) The license issued to each operator/licensee shall designate the licensee's name, facility name, address, the classification by level of service authorized for that facility, the number of beds authorized for each level, the date the license was issued and the expiration date. Such licenses shall be issued for a period ~~not to exceed one (1) year~~ of NOT LESS THAN SIX MONTHS NOR MORE THAN 18 MONTHS. The Department will set the period of the license based on the license expiration dates of the facilities in the geographical area surrounding the facility IN ORDER TO DISTRIBUTE THE EXPIRATION DATES as evenly as possible THROUGHOUT THE CALENDAR YEAR. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-110)

- c) An applicant may request that the license issued by the Department of Public Health have distinct parts classified according to levels of services. The distinct part must satisfactorily meet the applicable physical plant standards based on a level of service classification sought for that distinct part. If necessary to protect the health, welfare and safety of residents in a distinct part requiring higher standards, the Department shall require compliance with whatever additional physical plant standards are necessary in any distinct part ~~to~~, to achieve this protection as required by the highest level of care being licensed. Administrative, supervisory, and other personnel may be shared by the entire facility, if so doing does not adversely affect meeting the total needs of the residents of the facility.

- d) THE OPERATOR MAY NOT ADMIT RESIDENTS IN EXCESS OF THE LICENSED

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## Section 300.110(d) (continued)

CAPACITY OF THE FACILITY. ~~(See Section 300.280 - Violations and Penalties)~~ (B, C)

e) An intermediate care facility licensed and classified under the Act shall not use in its title or description "Hospital", "Sanitarium", "Sanatorium", "Rehabilitation Center", "Skilled Nursing Facility", or any other word or description in its title or advertisements which indicates that a type of service is provided by the facility which the facility is not licensed to provide or, in fact, does not provide. ~~(C)~~ A skilled nursing facility may use in its title or advertisement the words or description: "Nursing Home", "Intermediate Care", "Skilled Nursing Facility".

f) Any person constructing or modifying a long-term care facility or portion thereof without obtaining the required permit from the Health Facilities Planning Board shall not be eligible to apply for licensure for that facility or portion thereof (Ill. Rev. Stat. 1987-1983, ch. 111 1/2, par. 1163.1). ~~(C)~~

g) THE LICENSEE SHALL GIVE ~~NINETY~~ ~~(90)~~ DAYS NOTICE PRIOR TO VOLUNTARILY CLOSING A FACILITY OR CLOSING ANY PART OF A FACILITY, OR PRIOR TO CLOSING ANY PART OF A FACILITY IF CLOSING SUCH PART WILL REQUIRE THE TRANSFER OR DISCHARGE OF MORE THAN TEN PERCENT ~~(10%)~~ OF THE RESIDENTS. SUCH NOTICE SHALL BE GIVEN TO THE DEPARTMENT, TO ANY RESIDENTS WHO MUST BE TRANSFERRED OR DISCHARGED, TO THE RESIDENT'S REPRESENTATIVE, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE. NOTICE SHALL STATE THE PROPOSED DATE OF CLOSING AND THE REASON FOR CLOSING. THE LICENSEE SHALL OFFER TO ASSIST THE RESIDENT IN SECURING AN ALTERNATIVE PLACEMENT AND SHALL ADVISE THE RESIDENT ON AVAILABLE ALTERNATIVES. WHERE THE RESIDENT IS UNABLE TO CHOOSE AN ALTERNATE PLACEMENT AND IS NOT UNDER GUARDIANSHIP, THE DEPARTMENT SHALL BE NOTIFIED OF THE NEED FOR RELOCATION ASSISTANCE. THE FACILITY SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS UNTIL THE DATE OF CLOSING, INCLUDING THOSE RELATED TO TRANSFER OR DISCHARGE OF RESIDENTS. THE DEPARTMENT MAY PLACE A RELOCATION TEAM IN THE FACILITY AS PROVIDED UNDER THE ACT. (A, B)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.120 Application for License

a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility, ~~and for~~ or skilled nursing facility shall submit

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## Section 300.120(a) (continued)

pre-application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The pre-application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications. ~~(C)~~

b) A pre-application for a new facility shall be accompanied by a permit as required by the "Illinois Health Facilities Planning Act" (Ill. Rev. Stat. 1987-1983, ch. 111 1/2, par. 1151 et seq.). ~~(C)~~

c) APPLICATION FOR A LICENSE TO ESTABLISH OR OPERATE AN INTERMEDIATE CARE FACILITY, ~~AND/OR~~ OR SKILLED NURSING FACILITY SHALL BE MADE IN WRITING AND SUBMITTED, WITH OTHER SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE, ON FORMS PROVIDED BY THE DEPARTMENT.

d) ALL APPLICATIONS, EXCEPT THOSE OF HOMES FOR THE AGED, SHALL BE ACCOMPANIED BY AN APPLICATION FEE OF ~~TWO HUNDRED~~ ~~(200)~~ DOLLARS. THE APPLICATION SHALL BE UNDER OATH AND THE SUBMISSION OF FALSE OR MISLEADING INFORMATION SHALL BE A CLASS A MISDEMEANOR. THE APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

- 1) THE NAME AND ADDRESS OF THE APPLICANT IF AN INDIVIDUAL, AND IF A FIRM, PARTNERSHIP, OR ASSOCIATION, OF EVERY MEMBER THEREOF, AND IN THE CASE OF A CORPORATION, THE NAME AND ADDRESS THEREOF AND OF ITS OFFICERS AND ITS REGISTERED AGENT, AND IN THE CASE OF A UNIT OF LOCAL GOVERNMENT, THE NAME AND ADDRESS OF ITS CHIEF EXECUTIVE OFFICER;
- 2) THE NAME AND LOCATION OF THE FACILITY FOR WHICH A LICENSE IS SOUGHT;
- 3) THE NAME OF THE PERSON OR PERSONS UNDER WHOSE MANAGEMENT OR SUPERVISION THE FACILITY WILL BE CONDUCTED;
- 4) THE NUMBER AND TYPE OF RESIDENTS FOR WHICH MAINTENANCE, PERSONAL CARE, OR NURSING IS TO BE PROVIDED; AND
- 5) SUCH INFORMATION RELATING TO THE NUMBER, EXPERIENCE, AND TRAINING OF THE EMPLOYEES OF THE FACILITY, ANY MANAGEMENT AGREEMENTS FOR THE OPERATION OF THE FACILITY, AND OF THE MORAL CHARACTER OF THE APPLICANT AND EMPLOYEES AS THE DEPARTMENT MAY



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## Section 300.120(d)(5) (continued)

DEEM NECESSARY. (Ill. Rev. Stat. 1987 ~~1985 Supp.~~, ch. 111 1/2, par. 4153-103(2))

e) Ownership Change or Discontinuation

- 1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold, or leased; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be. ~~(6)~~

- 2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases. ~~(6)~~

- f) EACH INITIAL APPLICATION SHALL BE ACCOMPANIED BY A FINANCIAL STATEMENT SETTING FORTH THE FINANCIAL CONDITION OF THE APPLICANT AND BY A STATEMENT FROM THE UNIT OF LOCAL GOVERNMENT HAVING ZONING JURISDICTION OVER THE FACILITY'S LOCATION STATING THAT THE LOCATION OF THE FACILITY IS NOT IN VIOLATION OF A ZONING ORDINANCE. AN INITIAL APPLICATION FOR A NEW FACILITY SHALL BE ACCOMPANIED BY A PERMIT AS REQUIRED BY THE "ILLINOIS HEALTH FACILITIES PLANNING ACT". AFTER THE APPLICATION IS APPROVED, THE APPLICANT SHALL ADVISE THE DEPARTMENT EVERY ~~6~~ SIX MONTHS OF ANY CHANGES IN THE INFORMATION ORIGINALLY PROVIDED IN THE APPLICATION. (Ill. Rev. Stat. 1987 ~~1985 Supp.~~, ch. 111 1/2, par. 4153-103(2))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.130 Licensee

- a) The licensee is the corporate body, political subdivision, individual, or individuals responsible for the operation of the facility and upon whom rests the responsibility for meeting the licensing requirements. The licensee does not have to own the building being used.
- b) If the licensee does not own the building, a lease or management

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## Section 300.130(b) (continued)

agreement between the licensee and the owner of the building is required. A copy of the lease or management agreement shall be furnished to the Department. The Department shall also be provided with a copy of all new lease agreements or any changes to existing agreements within ~~thirty~~ ~~(30)~~ days of the effective date of such changes. ~~(6)~~

- c) If the licensee is not a corporation or a political subdivision of the State of Illinois, each person responsible for the operation of the facility and upon whom rests the responsibility for meeting the licensing Minimum Standards shall be at least ~~eighteen~~ ~~(18)~~ years of age. ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.140 Issuance of an Initial License for a New Facility

- a) UPON RECEIPT AND REVIEW OF AN APPLICATION FOR A LICENSE AND INSPECTION OF THE APPLICANT FACILITY, THE DIRECTOR SHALL ISSUE A PROBATIONARY LICENSE IF HE FINDS:

- 1) THE APPLICANT IS A PERSON RESPONSIBLE AND SUITABLE TO OPERATE OR TO DIRECT OR PARTICIPATE IN THE OPERATION OF A FACILITY BY VIRTUE OF FINANCIAL CAPACITY, APPROPRIATE BUSINESS OR PROFESSIONAL EXPERIENCE, A RECORD OF COMPLIANCE WITH LAWFUL ORDERS OF THE DEPARTMENT AND LACK OF REVOCATION OF A LICENSE DURING THE PREVIOUS FIVE ~~(5)~~ YEARS;
- 2) THE FACILITY IS UNDER THE SUPERVISION OF AN ADMINISTRATOR WHO IS LICENSED UNDER THE "NURSING HOME ADMINISTRATOR'S LICENSING AND DISCIPLINARY ACT" (Ill. Rev. Stat. 1987 ~~1979~~, ch. 111, par. ~~3601~~ ~~3651~~ et seq.) AS NOW OR HEREAFTER AMENDED; AND
- 3) THE FACILITY IS IN SUBSTANTIAL COMPLIANCE WITH THE "NURSING HOME CARE ~~REFORM~~ ACT ~~OF 1979~~", AND THIS PART.

- b) THE DEPARTMENT WILL ISSUE A PROBATIONARY LICENSE FOR ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS FROM DATE OF ISSUANCE.

- c) DURING THE ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAY PERIOD OF THE PROBATIONARY LICENSE, THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION OF THE APPLICANT WITHIN ~~THIRTY~~ ~~(30)~~ DAYS OF THE TERMINATION OF THE PROBATIONARY LICENSE TO DETERMINE WHETHER OR NOT THE APPLICANT

## Section 300.140(c) (continued)

THEN COMPLIES, AND IF NOT, WHETHER SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE. IF IN COMPLIANCE, THE PROBATIONARY LICENSE WILL BE REPLACED WITH A FULL STATUS LICENSE. IF NOT IN COMPLIANCE AND SATISFACTORY PROGRESS TOWARDS COMPLIANCE IS NOT BEING MADE, THE DEPARTMENT WILL ALLOW THE PROBATIONARY LICENSE TO EXPIRE.

- d) IF THE APPLICANT IS FOUND NOT TO BE IN COMPLIANCE BUT SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE, A SECOND PROBATIONARY LICENSE OF UP TO ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS MAY BE ISSUED. UNDER NO CONDITION MAY MORE THAN TWO ~~(2)~~ SUCCESSIVE PROBATIONARY LICENSES BE ISSUED.

- e) PRIOR TO ACTUAL RECEIPT BY THE OPERATOR OF THE LICENSE CERTIFICATE, THE OPERATOR MAY BEGIN OPERATION UPON RECEIPT OF WRITTEN APPROVAL BY THE DEPARTMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.150 Issuance of an Initial License Due to a Change of Ownership

- a) UPON RECEIPT AND REVIEW OF AN APPLICATION FOR A LICENSE THE DIRECTOR SHALL ISSUE A PROBATIONARY LICENSE IF HE FINDS:

1) THE APPLICANT IS A PERSON RESPONSIBLE AND SUITABLE TO OPERATE OR TO DIRECT OR TO PARTICIPATE IN THE OPERATION OF A FACILITY BY VIRTUE OF FINANCIAL CAPACITY, APPROPRIATE BUSINESS OR PROFESSIONAL EXPERIENCE, A RECORD OF COMPLIANCE WITH LAWFUL ORDERS OF THE DEPARTMENT AND LACK OF REVOCATION OF A LICENSE DURING THE PREVIOUS FIVE ~~(5)~~ YEARS;

2) THE FACILITY IS UNDER THE SUPERVISION OF AN ADMINISTRATOR WHO IS LICENSED UNDER THE "NURSING HOME ADMINISTRATOR'S LICENSING ACT", AS NOW OR HEREFTER AMENDED; AND

3) THE FACILITY IS IN SUBSTANTIAL COMPLIANCE WITH THE "NURSING HOME CARE REFORM ACT OF 1979" AND THIS PART.

- b) WHENEVER OWNERSHIP OF A FACILITY IS TRANSFERRED FROM THE PERSON NAMED IN A LICENSE TO ANY OTHER PERSON, THE TRANSFEREE MUST OBTAIN A NEW PROBATIONARY LICENSE. THE TRANSFEREE SHALL NOTIFY THE DEPARTMENT OF THE TRANSFER AND APPLY FOR A NEW LICENSE AT LEAST ~~THIRTY~~ ~~(30)~~ DAYS PRIOR TO FINAL TRANSFER. ~~(6)~~

- c) THE TRANSFEROR SHALL NOTIFY THE DEPARTMENT AT LEAST ~~THIRTY~~ ~~(30)~~

## Section 300.150(c) (continued)

DAYS PRIOR TO FINAL TRANSFER. THE TRANSFEROR SHALL REMAIN RESPONSIBLE FOR THE OPERATION OF THE FACILITY UNTIL SUCH TIME AS THE LICENSE IS ISSUED TO THE NEW TRANSFEREE. ~~(6)~~

- d) THE LICENSE GRANTED TO THE TRANSFEREE SHALL BE SUBJECT TO ANY PLAN OF CORRECTION SUBMITTED BY THE PREVIOUS OWNER AND APPROVED BY THE DEPARTMENT AND ANY CONDITIONS CONTAINED IN A CONDITIONAL LICENSE ISSUED TO THE PREVIOUS OWNER. IF THERE ARE OUTSTANDING VIOLATIONS AND NO PLAN OF CORRECTION HAS BEEN SUBMITTED BY THE FACILITY AND APPROVED BY THE DEPARTMENT, THE DEPARTMENT MAY ISSUE A CONDITIONAL LICENSE AND PLAN OF CORRECTION AS PROVIDED IN SECTIONS 3-311 THROUGH 3-317 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ IN PLACE OF A PROBATIONARY LICENSE. ~~(6)~~

- e) THE TRANSFEROR SHALL REMAIN LIABLE FOR ALL PENALTIES ASSESSED AGAINST THE FACILITY WHICH ARE IMPOSED FOR VIOLATIONS OCCURRING PRIOR TO TRANSFER OF ~~OR~~ OWNERSHIP. ~~(6)~~

- f) THE DEPARTMENT WILL ISSUE A PROBATIONARY LICENSE FOR ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS FROM DATE OF ISSUANCE.

- g) During the ~~one hundred twenty~~ ~~(120)~~ days of the probationary license, the Department shall conduct an investigation of the applicant within ~~thirty~~ ~~(30)~~ days of the termination of the probationary license to determine whether or not the applicant then complies, and if not, whether satisfactory progress is being made toward compliance. If in compliance, the probationary license will be replaced with a full status license. If not in compliance and satisfactory progress toward compliance is not being made, the Department will allow the probationary license to expire.

- h) If the applicant is found not to be in compliance but satisfactory progress is being made toward compliance, a second probationary license of up to ~~one hundred twenty~~ ~~(120)~~ days may be issued. Under no condition may more than two ~~(2)~~ successive probationary licenses be issued.

- i) THE ISSUANCE DATE OF THE PROBATIONARY LICENSE TO THE NEW OWNER WILL BE THE DATE THE LAST LICENSURE REQUIREMENT IS MET AS DETERMINED BY THE DEPARTMENT. PRIOR TO ACTUAL RECEIPT BY THE OPERATOR OF THE LICENSE CERTIFICATE, THE OPERATOR MAY BEGIN OPERATION UPON RECEIPT OF WRITTEN APPROVAL BY THE DEPARTMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 300.160 Issuance of a Renewal License

AT LEAST ~~ONE HUNDRED TWENTY (120)~~ DAYS, BUT NOT MORE THAN ~~ONE HUNDRED FIFTY (150)~~ DAYS, PRIOR TO LICENSE EXPIRATION, THE LICENSEE SHALL SUBMIT AN APPLICATION FOR RENEWAL OF THE LICENSE IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE DEPARTMENT REQUIRES. IF THE APPLICATION IS APPROVED, AND THE FACILITY IS IN COMPLIANCE WITH ALL OTHER LICENSURE REQUIREMENTS, THE LICENSE SHALL BE RENEWED FOR AN ADDITIONAL ONE YEAR PERIOD. (See Section 300.240 for municipal licensing requirements.) ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.165 Criteria for Adverse Licensure Actions

- a) Adverse licensure actions are determinations to deny the issuance of an initial license, to deny the issuance of a renewal of a license, or to revoke the current license of a facility.
- b) A determination by the Director or his designee to take adverse licensure action against a facility shall be based on a finding that one or more of the following criteria are met:

- 1) The facility has SUBSTANTIALLY FAILED TO MEET ANY OF THE MINIMUM STANDARDS SET FORTH IN THE ACT OR THESE RULES. For purposes of this provision, substantial failure is a failure to meet the requirements of this Part which is other than a variance from strict and literal performance which results only in unimportant omissions or defects given the particular circumstances involved. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-117(1) and 4153-119(a)(1))
- 2) THE LICENSEE OR APPLICANT, OR THE PERSON DESIGNATED TO MANAGE OR SUPERVISE THE FACILITY HAS BEEN CONVICTED OF any of the following crimes DURING THE PREVIOUS FIVE YEARS. Such convictions shall be verified by A CERTIFIED COPY OF THE RECORD OF THE COURT OF CONVICTION.

- A) A FELONY.
- B) TWO OR MORE MISDEMEANORS INVOLVING MORAL TURPITUDE. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-117(2) and 4153-119(a)(2))
- 3) THE MORAL CHARACTER OF THE LICENSEE, ADMINISTRATOR, MANAGER, OR SUPERVISOR OF THE FACILITY IS NOT REPUTABLE. Evidence to be considered will include verifiable statements by residents of a

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## Section 300.165(b)(3) (continued)

facility, law enforcement officials, or other persons with knowledge of the individual's character. In addition, the definition afforded to the terms "reputable," "unreputable," and "irreputable" by the circuit courts of the State of Illinois shall apply when appropriate to the given situation. For purposes of this Section, a manager or supervisor of the facility is an individual with responsibility for the overall management, direction, coordination, or supervision of the facility or the facility staff. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(2) and 4153-119(a)(2))

- 4) The facility is operating (or, for an initial applicant, intends to operate) with PERSONNEL WHICH ARE INSUFFICIENT IN NUMBER OR UNQUALIFIED BY TRAINING OR EXPERIENCE TO PROPERLY CARE FOR THE NUMBER AND TYPE OF RESIDENTS in the facility. Standards in these rules concerning personnel, including Sections 300.810, 300.820, 300.830, 300.1220, 300.1230 and 300.1240, will be considered in making this determination. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-117(3) and 4153-119(a)(3))
- 5) The facility has available INSUFFICIENT FINANCIAL OR OTHER RESOURCES TO OPERATE THE FACILITY IN ACCORDANCE WITH THESE RULES. Financial information and changes in financial information provided by the facility under Section 300.120(f) and under Section 3-208 of the Act will be considered in making this determination. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-208)

- 6) THE FACILITY IS NOT UNDER THE DIRECT SUPERVISION OF A FULL-TIME ADMINISTRATOR as required by Section 300.510. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-117(6) and 4153-119(a)(5))

- 7) The facility has violated the rights of residents of the facility by any of the following actions:

- A) A pervasive pattern of cruelty or indifference to residents has occurred in the facility.
- B) The facility has appropriated or converted for its use the property of a resident without his written consent or the consent of his legal guardian.
- C) The facility has secured property, or a bequest of property, from a resident by undue influence.

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## Section 300.165(b) (continued)

- 8) The facility knowingly submitted false information either on the licensure or renewal application forms or during the course of an inspection or survey of the facility.
- 9) The facility has refused to allow an inspection or survey of the facility by agents of the Department to occur.
- c) The Director or his designee shall consider all available evidence at the time of the determination, including the history of the facility and the applicant in complying with the Act and these rules, notices of violations which have been issued to the facility and the applicant, findings of surveys and inspections, and any other evidence provided by the facility, residents, law enforcement officials and other interested individuals.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.170 Denial of Initial License

- a) A determination by the Director or his designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 300.165 or the following criteria are met.

- 1) THE APPLICANT, ANY MEMBER OF THE FIRM, PARTNERSHIP, OR ASSOCIATION WHICH IS THE APPLICANT, ANY OFFICER OR STOCKHOLDER OF THE CORPORATION WHICH IS THE APPLICANT, OR THE PERSON DESIGNATED TO MANAGE OR SUPERVISE THE FACILITY HAS BEEN CONVICTED OF ANY OF THE FOLLOWING CRIMES DURING THE PREVIOUS FIVE YEARS. Such convictions shall be verified by A CERTIFIED COPY OF THE RECORD OF THE COURT OF CONVICTION.

- A) A FELONY.

- B) TWO OR MORE MISDEMEANORS INVOLVING MORAL TURPITUDE. (111. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-117(2))

- 2) Prior license revocation. Both of the following conditions must be met:

- A) The license of a facility under this Act has been REVOKED DURING THE PAST FIVE YEARS, which was owned or operated BY THE APPLICANT, BY A CONTROLLING OWNER OF THE APPLICANT, BY

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## Section 300.170(a)(2)(A) (continued)

A CONTROLLING COMBINATION OF OWNERS OF THE APPLICANT, OR BY AN AFFILIATE WHO IS A CONTROLLING OWNER OF THE APPLICANT. Operation for the purposes of this provision shall include individuals with responsibility for the overall management, direction, or supervision of the facility.

- B) SUCH PRIOR REVOCATION RENDERS THE APPLICANT UNQUALIFIED OR INCAPABLE OF MAINTAINING A FACILITY IN ACCORDANCE WITH THE MINIMUM STANDARDS SET FORTH IN THE ACT OR IN THESE RULES. This determination will be based on the applicant's qualifications and ability to meet the criteria outlined in Section 300.165(b) as evidenced by the application and the applicant's prior history. (111. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-117(5))

- b) The Department shall notify an applicant IMMEDIATELY UPON DENIAL OF ANY APPLICATION. Such notice shall be IN WRITING and shall include:

- 1) A CLEAR AND CONCISE STATEMENT of the basis of the denial. The statement shall include a citation to the provisions of Section 3-117 of the Act and the provisions of these rules under which the application is being denied.

- 2) A description of THE RIGHT OF THE APPLICANT TO APPEAL THE DENIAL OF THE APPLICATION and the right to a hearing. (111. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-118)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.175 Denial of Renewal of License

- a) Application for renewal of a license of a facility shall be denied and the license of the facility shall be allowed to expire when the Director or his designee finds that a condition, occurrence, or situation in the facility meets any of the criteria specified in Section 300.165(b).

- b) When the Director or his designee determines that an application for renewal of a license of a facility is to be denied, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:

- 1) A CLEAR AND CONCISE STATEMENT of the basis of the denial. The



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## Section 300.175(b)(1) (continued)

statement shall include a citation to the provisions of the Act and these rules on which the application for renewal is being denied.

- 2) A statement of the date on which the current license of the facility will expire as provided in Subsection (c) of this Section and Section 3-119(d) of the Act (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-119(d)).
- 3) A description of THE RIGHT OF THE APPLICANT TO APPEAL THE DENIAL OF THE APPLICATION FOR RENEWAL AND THE RIGHT TO A HEARING. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-119(b))
- c) The effective date of the nonrenewal of a license shall be as provided in Section 3-119(d) of the Act (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-119(d)).
- d) The current license of the facility shall be EXTENDED BY THE DEPARTMENT when it finds that such extension is necessary TO PERMIT ORDERLY REMOVAL AND RELOCATION OF RESIDENTS. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-119(d)(3))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.180 Revocation of License

- a) The license of a facility shall be revoked when the Director or his designee finds that a condition, occurrence or situation in the facility meets any of the criteria specified in Section 300.165(b). In addition, the license of a facility will be revoked when the facility fails to abate or eliminate a level A violation as provided in Section 300.282(b).
- b) When the Director or his designee determines that the license of a facility is to be revoked, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:
  - 1) A CLEAR AND CONCISE STATEMENT of the basis of the revocation. The statement shall include a citation to the provisions of the Act and these rules on which the license is being revoked.
  - 2) A statement of the date on which the revocation will take effect as provided in Subsection (c) of this Section and Section

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## Section 300.180(b)(2) (continued)

3-119(d) of the Act (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-119(d)).

- 3) A description of THE RIGHT OF THE FACILITY TO APPEAL THE REVOCATION OF THE LICENSE AND THE RIGHT TO A HEARING. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-119(b))
- c) The effective date of the revocation of a license shall be as provided in Section 3-119(d) of the Act. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-119(d))
- d) The effective date of the revocation shall be EXTENDED BY THE DEPARTMENT when it finds that such extension is necessary TO PERMIT ORDERLY REMOVAL AND RELOCATION OF RESIDENTS. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-119(d)(3))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.190 Experimental Program Conflicting With Requirements

- a) Any facility desiring to conduct an experimental program or do research which is in conflict with this Part shall submit a written request to the Department and secure prior approval. The Department will not approve experimental programs which would violate residents rights under the Act. Such approval will be granted only if the request will not create an unnecessary and unusual threat to the health, welfare, or safety of the residents or staff. (A, B)
- b) The Department may grant to a facility special permission to provide day care when it has adequate facilities and staff to satisfactorily provide such services based on the requirements in Section 300.3710. ~~(See guidelines in Appendix D.)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.200 Inspections, Surveys, Evaluations and Consultation

The terms survey, inspection and evaluation are synonymous. These terms refer to the overall examination of compliance with the Act and the regulations in this Part.

- a) All facilities to which this Part applies shall be subject to and

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## Section 300.200(a) (continued)

shall be deemed to have given consent to annual inspections, surveys evaluations by properly identified personnel of the Department, or by such other properly identified persons, including local health department staff, as the Department may designate. AN INSPECTION, SURVEY OR EVALUATION, OTHER THAN AN INSPECTION OF FINANCIAL RECORDS SHALL BE UNANNOUNCED. CONSULTATIONS MAY BE ANNOUNCED (Ill. Rev. Stat. 1987 ~~1985-Supp.~~, ch. 111 1/2, par. 4153-212). The licensee, or person representing the licensee in the facility, shall provide to the representative of the Department access and entry to the premises or facility for obtaining information required to carry out this Act and the rules promulgated under the Act. IN ADDITION, REPRESENTATIVES OF THE DEPARTMENT SHALL HAVE ACCESS TO AND MAY REPRODUCE OR PHOTOCOPY AT THE DEPARTMENT'S COST ANY BOOKS, RECORDS, AND OTHER DOCUMENTS MAINTAINED BY THE FACILITY, THE LICENSEE OR THEIR REPRESENTATIVES TO THE EXTENT NECESSARY TO CARRY OUT THIS ACT AND THE RULES PROMULGATED THEREUNDER (Ill. Rev. Stat. 1987 ~~1985-Supp.~~, ch. 111 1/2, par. 4153-213). A facility may charge the Department for such photocopying at a rate determined by the facility not to exceed the rate in the Department's Freedom of Information Rules - 2 Ill. Adm. Code 1126. ~~(C)~~

b) BEFORE MAKING MORE THAN THE REQUIRED NUMBER OF INSPECTIONS, SURVEYS AND EVALUATIONS OF A FACILITY, THE DEPARTMENT SHALL HAVE TAKEN INTO ACCOUNT THE FOLLOWING CRITERIA:

- 1) PREVIOUS INSPECTION REPORTS;
- 2) THE FACILITY'S HISTORY OF COMPLIANCE WITH THE ACT:
  - A) PRIOR CORRECTION OF VIOLATIONS;
  - B) PRIOR ENFORCEMENT ACTIONS;
  - C) NUMBER AND SEVERITY OF PRIOR COMPLAINTS;
- 3) NUMBER AND SEVERITY OF CURRENT COMPLAINTS;
- 4) ALLEGATIONS OF RESIDENT ABUSE OR NEGLECT;
- 5) COMPLIANCE WITH DISASTER PREPAREDNESS PROVISIONS UNDER THE ACT;
- 6) OTHER REASONABLE BELIEF THAT DEFICIENCIES REGARDING THE ACT EXIST; ~~AND/OR~~ AND
- 7) requirements pursuant to the "1864 Agreement" (42 USCA 1395aa)

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## Section 300.200(b)(7) (continued)

between the Department and U.S. Health and Human Services (HHS) (e.g., annual and follow-up certification inspections, life safety code inspections and any inspections requested by the secretary of HHS). ~~(C)~~ (Ill. Rev. Stat. 1987 ~~1985-Supp.~~, ch. 111 1/2, par. 4153-212(b))

c) UPON THE COMPLETION OF EACH INSPECTION, SURVEY AND EVALUATION, THE REPRESENTATIVE OF THE DEPARTMENT WHO CONDUCTED THE INSPECTION, SURVEY OR EVALUATION SHALL SUBMIT A COPY OF THEIR REPORT TO THE LICENSEE OR THEIR REPRESENTATIVE, UPON EXITING THE FACILITY. A copy of the information gathered during a complaint investigation will not be provided upon exiting the facility. COMMENTS OR DOCUMENTATION WHICH EXPLAIN EXTENUATING CIRCUMSTANCES THAT THE FACILITY COULD NOT REASONABLY HAVE PREVENTED, OR WHICH INDICATE METHODS AND TIMETABLES FOR CORRECTION OF DEFICIENCIES DESCRIBED IN THE REPORT SHALL BE PROVIDED TO THE DEPARTMENT WITHIN ~~10~~ TEN DAYS OF RECEIPT OF THE COPY OF THE REPORT. (Ill. Rev. Stat. 1987 ~~1985-Supp.~~, ch. 111 1/2, par. 4153-212(c))

d) Consultation consists of providing advice or suggestions to the staff of a facility at their request relative to specific matters of the scope of regulation, methods of compliance with the Act or rules, ~~and/or~~ or general matters of patient care.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.210 Filing an Annual Attested Financial Statement

a) Each licensee shall submit an annual attested financial statement to the Department. This financial statement shall be filed in a prescribed format on forms supplied by the Department. The forms will be developed in conjunction with the Illinois Department of Public Aid. THE TIME PERIOD COVERED IN THE FINANCIAL STATEMENT SHALL BE A PERIOD DETERMINED BY THE DEPARTMENT FOR THE INITIAL FILING, AND SHALL THEREAFTER COINCIDE WITH THE FACILITY'S FISCAL YEAR OR THE CALENDAR YEAR. ~~(C)~~

b) THE DEPARTMENT MAY REQUIRE ANY FACILITY TO FILE AN AUDITED FINANCIAL STATEMENT, IF THE DEPARTMENT DETERMINES THAT SUCH A STATEMENT IS NEEDED.

c) THE DEPARTMENT MAY REQUIRE ANY OR ALL FACILITIES TO SUBMIT ATTESTED OR AUDITED FINANCIAL STATEMENTS MORE FREQUENTLY THAN ANNUALLY, IF THE



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## Section 300.210(c) (continued)

DEPARTMENT DETERMINES THAT MORE FREQUENT FINANCIAL STATEMENTS ARE NEEDED. THE FREQUENCY AND TIME PERIOD OF SUCH FILINGS SHALL BE AS DETERMINED BY THE DEPARTMENT FOR EACH INDIVIDUAL FACILITY.

- d) THE FINANCIAL STATEMENT SHALL BE FILED WITH THE DEPARTMENT WITHIN ~~NINETY (90)~~ DAYS FOLLOWING THE END OF THE DESIGNATED REPORTING PERIOD. THE FINANCIAL STATEMENT WILL NOT BE CONSIDERED AS HAVING BEEN FILED UNLESS ALL SECTIONS OF THE PRESCRIBED FORMS HAVE BEEN PROPERLY COMPLETED. THOSE SECTIONS WHICH DO NOT APPLY TO A PARTICULAR FACILITY SHALL BE NOTED "NOT APPLICABLE" ON THE FORMS. ~~(G)~~

- e) THE INFORMATION REQUIRED TO BE SUBMITTED IN THE FINANCIAL STATEMENT WILL INCLUDE AT A MINIMUM THE FOLLOWING:

- 1) FACILITY INFORMATION, INCLUDING: FACILITY NAME AND ADDRESS, LICENSE INFORMATION, TYPE OF OWNERSHIP, LICENSED BED CAPACITY, DATE AND COST OF BUILDING CONSTRUCTION AND ADDITIONS, DATE AND COST OF ACQUISITION OF BUILDINGS, BUILDING SIZES, EQUIPMENT COSTS AND DATES OF ACQUISITION. ~~(G)~~
- 2) RESIDENT INFORMATION, INCLUDING: NUMBER AND LEVEL OF CARE OF RESIDENTS BY SOURCE OF PAYMENT, INCOME FROM RESIDENTS BY LEVEL OF CARE. ~~(G)~~
- 3) COST INFORMATION BY LEVEL OF CARE, INCLUDING:
  - A) GENERAL SERVICE COSTS; SUCH AS DIETARY, FOOD, HOUSEKEEPING, LAUNDRY, UTILITIES, AND PLANT OPERATION AND MAINTENANCE. ~~(G)~~
  - B) HEALTH CARE COSTS; SUCH AS MEDICAL DIRECTOR, NURSING, MEDICATIONS, OXYGEN, ACTIVITIES, MEDICAL RECORDS, OTHER MEDICAL SERVICES, SOCIAL SERVICES, AND UTILIZATION REVIEWS. ~~(G)~~
  - C) GENERAL ADMINISTRATION; SUCH AS ADMINISTRATIVE SALARIES, PROFESSIONAL SERVICES, FEES, SUBSCRIPTIONS, PROMOTIONAL, INSURANCE, TRAVEL, CLERICAL, EMPLOYEE BENEFITS, LICENSE FEES, AND INSERVICE TRAINING AND EDUCATION. ~~(G)~~
  - D) Ownership; such as depreciation, interest, taxes, rent, and leasing. ~~(G)~~
  - E) Special Service cost centers; such as habilitative and rehabilitative services, therapies, transportation,

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## Section 300.210(e)(3)(E) (continued)

- education, barber and beauty care, and gift and coffee shop. ~~(G)~~
- 4) Income information, including operating and nonoperating income. ~~(G)~~
- 5) Ownership information, including balance sheet and payment to owners. ~~(G)~~
- 6) Personnel information, including the number and type of people employed and salaries paid. ~~(G)~~
- 7) Related organization information, including related organizations from which services are purchased. ~~(G)~~

- f) The new owner or a new lessee of a previously licensed facility may file a projection of capital costs at the time of closing or signing of the lease.

- 1) A facility which is licensed for the first time (a newly constructed facility) must file a projection of capital costs. ~~(G)~~
- 2) Each of the above must file a full cost report within nine ~~(9)~~ months after acquisition (covering the first six ~~(6)~~ months of operation). Each must also file a cost report within ninety ~~(90)~~ days of the close of its first complete fiscal year. ~~(G)~~
- g) NO PUBLIC FUNDS SHALL BE EXPENDED FOR THE MAINTENANCE OF ANY RESIDENT IN ANY FACILITY WHICH HAS FAILED TO FILE THIS FINANCIAL STATEMENT, AND NO PUBLIC FUNDS SHALL BE PAID TO, OR ON BEHALF OF, A FACILITY WHICH HAS FAILED TO FILE THE STATEMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.220

Information to Be Made Available to the Public By the Department

- a) THE DEPARTMENT SHALL RESPECT THE CONFIDENTIALITY OF A RESIDENT'S RECORD AND SHALL NOT DIVULGE OR DISCLOSE THE CONTENTS OF A RECORD IN A MANNER WHICH IDENTIFIES A RESIDENT, EXCEPT UPON A RESIDENT'S DEATH TO A RELATIVE OR GUARDIAN, OR UNDER JUDICIAL PROCEEDINGS. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF A RESIDENT OR A

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## Section 300.220(a) (continued)

- RESIDENT'S REPRESENTATIVE TO INSPECT OR COPY THE RESIDENT'S RECORDS.
- b) CONFIDENTIAL MEDICAL, SOCIAL, PERSONAL OR FINANCIAL INFORMATION IDENTIFYING A RESIDENT SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION IN A MANNER WHICH IDENTIFIES A RESIDENT. ~~(C)~~
  - c) THE FOLLOWING INFORMATION IS SUBJECT TO DISCLOSURE TO THE PUBLIC FROM THE DEPARTMENT OR THE DEPARTMENT OF PUBLIC AID:
    - 1) INFORMATION SUBMITTED UNDER SECTIONS 3-103 AND 3-207 OF THE ACT, EXCEPT INFORMATION CONCERNING THE REMUNERATION OF PERSONNEL LICENSED, REGISTERED, OR CERTIFIED BY THE DEPARTMENT OF REGISTRATION AND EDUCATION AND MONTHLY CHARGES FOR AN INDIVIDUAL PRIVATE RESIDENT;
    - 2) RECORDS OF LICENSE AND CERTIFICATION INSPECTIONS, SURVEYS, AND EVALUATIONS OF FACILITIES, OTHER REPORTS OF INSPECTIONS, SURVEYS, AND EVALUATIONS OF RESIDENT CARE, AND REPORTS CONCERNING A FACILITY PREPARED PURSUANT TO TITLES XVIII AND XIX OF THE SOCIAL SECURITY ACT, (42 U.S.C.A. 1395 et seq. and 1396 et seq.) SUBJECT TO THE PROVISIONS OF THE SOCIAL SECURITY ACT (42 U.S.C.A. 301 et seq.);
    - 3) COST AND REIMBURSEMENT REPORTS SUBMITTED BY A FACILITY UNDER SECTION 3-208 OF THE ACT, REPORTS OF AUDITS OF FACILITIES, AND OTHER PUBLIC RECORDS CONCERNING THE COST INCURRED BY, REVENUES RECEIVED BY, AND REIMBURSEMENT OF FACILITIES;
    - 4) COMPLAINTS FILED AGAINST A FACILITY AND COMPLAINT INVESTIGATION REPORTS, EXCEPT THAT A COMPLAINT OR COMPLAINT INVESTIGATION REPORT SHALL NOT BE DISCLOSED TO A PERSON OTHER THAN THE COMPLAINANT OR COMPLAINANT'S REPRESENTATIVE BEFORE IT IS DISCLOSED TO A FACILITY UNDER SECTION 3-702 OF THE ACT, AND, FURTHER, EXCEPT THAT A COMPLAINANT OR RESIDENT'S NAME SHALL NOT BE DISCLOSED EXCEPT UNDER SECTION 3-702 OF THE ACT.
    - 5) THE DEPARTMENT SHALL DISCLOSE INFORMATION UNDER THIS SECTION IN ACCORDANCE WITH PROVISIONS FOR INSPECTION AND COPYING OF PUBLIC RECORDS REQUIRED BY THE FREEDOM OF INFORMATION ACT (Ill. Rev. Stat. 1987 ~~1984 Supp.~~, ch. 116, par. 201 et seq.); AND
    - 6) HOWEVER, THE DISCLOSURE OF INFORMATION DESCRIBED IN SUBSECTION (1) SHALL NOT BE RESTRICTED BY ANY PROVISION OF THE FREEDOM OF INFORMATION ACT. (Ill. Rev. Stat. 1987 ~~1985 Supp.~~, ch. 111 1/2, par. 4153-205)

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## Section 300.220 (continued)

- d) Copies of reports available to the public may be obtained by making a written request to the Department in accordance with the Department's Freedom of Information Rules - 2 Ill. Adm. Code 1126. However, access to cost reports shall be governed by Department of Public Aid rule "Access to Cost Reports" (89 Ill. Adm. Code 140.544). The Department may, at its discretion, waive this fee if the party requesting the material is involved in legal action with the Department.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.230 Information to Be Made Available to the Public By the Licensee

- a) EVERY FACILITY SHALL CONSPICUOUSLY POST OR DISPLAY IN AN AREA OF ITS OFFICES ACCESSIBLE TO RESIDENTS, EMPLOYEES, AND VISITORS THE FOLLOWING:
  - 1) ITS CURRENT LICENSE; ~~(C)~~
  - 2) A DESCRIPTION, PROVIDED BY THE DEPARTMENT OF COMPLAINT PROCEDURES ESTABLISHED UNDER THE "NURSING HOME CARE REFORM ACT OF 1979" AND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A PERSON AUTHORIZED BY THE DEPARTMENT TO RECEIVE COMPLAINTS; ~~(C)~~
  - 3) A COPY OF ANY ORDER PERTAINING TO THE FACILITY ISSUED BY THE DEPARTMENT OR A COURT; AND ~~(C)~~
  - 4) A LIST OF THE MATERIAL AVAILABLE FOR PUBLIC INSPECTION UNDER SECTION 3-210 OF THE ~~"NURSING HOME CARE REFORM" ACT OF 1979~~; ~~(C)~~
- b) A FACILITY SHALL RETAIN THE FOLLOWING FOR PUBLIC INSPECTION:
  - 1) A COMPLETE COPY OF EVERY INSPECTION REPORT OF THE FACILITY RECEIVED FROM THE DEPARTMENT DURING THE PAST FIVE ~~(5)~~ YEARS; ~~(C)~~
  - 2) A COPY OF EVERY ORDER PERTAINING TO THE FACILITY ISSUED BY THE DEPARTMENT OR A COURT DURING THE PAST FIVE ~~(5)~~ YEARS; ~~(C)~~
  - 3) A DESCRIPTION OF THE SERVICES PROVIDED BY THE FACILITY AND THE RATES CHARGED FOR THOSE SERVICES AND ITEMS FOR WHICH A RESIDENT MAY BE SEPARATELY CHARGED; ~~(C)~~



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## Section 300.230(b) (continued)

- 4) A COPY OF THE STATEMENT OF OWNERSHIP REQUIRED BY SECTION 3-207 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~; ~~(C)~~
- 5) A RECORD OF PERSONNEL EMPLOYED OR RETAINED BY THE FACILITY WHO ARE LICENSED, CERTIFIED OR REGISTERED BY THE DEPARTMENT OF REGISTRATION AND EDUCATION; AND ~~(C)~~
- 6) A COMPLETE COPY OF THE MOST RECENT INSPECTION REPORT OF THE FACILITY RECEIVED FROM THE DEPARTMENT. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.240 Municipal Licensing

- a) Municipalities which have adopted a licensing ordinance as provided under Section 3-104 of the ~~"Nursing Home Care Reform Act of 1979"~~ and this Part shall adopt this Part ~~these Minimum Standards, for Intermediate Care Facilities and Skilled Nursing Facilities by reference~~ by complying with Article I, Division 3, of the "Illinois Municipal Code" (Ill. Rev. Stat. 1987 ~~1983~~, ch. 24, pars. 1-3-1 through 1-3-6.)
- b) Municipalities shall issue licenses so that the expiration dates are distributed throughout the calendar year. The month the license expires shall coincide with the date of original licensure of the licensee. During the ~~twenty-four~~ ~~(24)~~ month period following the effective date of the ~~"Nursing Home Care Reform Act of 1979"~~, the municipality may issue renewal licenses for a period of less than one ~~(1)~~ year in order to distribute the expiration date of such licenses throughout the calendar year.
- c) The municipality shall notify the Department within ten ~~(10)~~ days from the date of issuance or denial of a license that the municipal license has been issued or denied. If the license is issued, the notice will include the facility name, address, the date of issuance, and the number of beds by level of care for which the license was issued. If the license is denied, the notice will indicate reason for denial and the current status of licensee's (applicant's) application for municipal license.
- d) The municipality shall use the same licensing classifications as the Department; and a facility may not be licensed for a different classification by the Department than by the municipality.

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## Section 300.240 (continued)

- e) The Department and the municipality shall have the right at any time to visit and inspect the premises and personnel of any facility for the purpose of determining whether the applicant or licensee is in compliance with the ~~"Nursing Home Care Reform Act of 1979"~~, this Part or with the local ordinances which govern the regulation of the facility. The Department may survey any former facility which once held a license to insure that the facility is not again operating without a license. Municipalities may charge a reasonable license or renewal fee for the regulation of facilities, which fees shall be in addition to the fees paid to the Department.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.250 Ownership Disclosure

- a) AS A CONDITION OF THE ISSUANCE OR RENEWAL OF THE LICENSE OF ANY FACILITY, THE APPLICANT SHALL FILE A STATEMENT OF OWNERSHIP. THE APPLICANT SHALL NOTIFY THE Department of any change in ~~AGREE TO UPDATE~~ THE INFORMATION REQUIRED IN THE STATEMENT OF OWNERSHIP WITHIN TEN DAYS OF THE CHANGE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-207(a)) ~~EVERY SIX (6) MONTHS FROM THE INITIAL DATE OF FILING IF THERE IS ANY CHANGE. (C)~~
- b) A STATEMENT OF OWNERSHIP SHALL INCLUDE THE FOLLOWING:
  - 1) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number, and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five ~~(5)~~ percent or more in the legal entity designated as the operator/licensee of the facility which is the subject of the application or license; ~~(C)~~
  - 2) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number, and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five ~~(5)~~ percent or more in the legal entity that owns the building in which the operator/licensee is operating the facility which is the subject of the application or license; and ~~(C)~~
  - 3) THE NAME AND ADDRESS OF ANY FACILITY, WHEREVER LOCATED, IN WHICH

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## Section 300.250(b)(3) (continued)

THE APPLICANT HAS ANY OWNERSHIP INTEREST. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-207(b)) ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.260 Issuance of Conditional Licenses

a) THE DIRECTOR MAY ISSUE A CONDITIONAL LICENSE TO ANY FACILITY IF THE DIRECTOR FINDS THAT EITHER A TYPE "a" OR TYPE "b" VIOLATION EXISTS IN SUCH FACILITY. THE ISSUANCE OF A CONDITIONAL LICENSE SHALL REVOKE ANY LICENSE HELD BY THE FACILITY.

b) PRIOR TO THE ISSUANCE OF A CONDITIONAL LICENSE, THE DEPARTMENT SHALL REVIEW AND APPROVE A WRITTEN PLAN OF CORRECTION. THE DEPARTMENT SHALL SPECIFY THE VIOLATIONS WHICH PREVENT FULL LICENSURE AND SHALL ESTABLISH A TIME SCHEDULE FOR CORRECTION OF THE DEFICIENCIES. RETENTION OF THE LICENSE SHALL BE CONDITIONAL UPON THE CORRECTION OF THE DEFICIENCIES IN ACCORDANCE WITH THE PLAN OF CORRECTION. (Ill. Rev. Stat. 1987 ~~1985 Supp.~~, ch. 111 1/2, par. 4153-312).

c) WRITTEN NOTICE OF THE DECISION TO ISSUE A CONDITIONAL LICENSE SHALL BE SENT TO THE APPLICANT OR LICENSEE TOGETHER WITH THE SPECIFICATION OF ALL VIOLATIONS OF THIS ACT AND THE RULES PROMULGATED THEREUNDER WHICH PREVENT FULL LICENSURE AND WHICH FORM THE BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A CONDITIONAL LICENSE AND THE REQUIRED PLAN OF CORRECTION. THE NOTICE SHALL INFORM THE APPLICANT OR LICENSEE OF ITS RIGHT TO A FULL HEARING UNDER SECTION 3-315 OF THE ACT. (Ill. Rev. Stat. 1987 ~~1985 Supp.~~, ch. 111 1/2, par. 4153-313)

~~d) IF THE FACILITY DESIRES TO HAVE AN INFORMAL CONFERENCE, IT SHALL, WITHIN FOUR (4) WORKING DAYS FROM RECEIPT OF THE NOTICE UNDER THE ACT, SEND A WRITTEN REQUEST FOR AN INFORMAL CONFERENCE TO THE DEPARTMENT. THE DEPARTMENT SHALL, WITHIN FOUR (4) WORKING DAYS FROM THE RECEIPT OF THE REQUEST, HOLD AN INFORMAL CONFERENCE, FOLLOWING THIS CONFERENCE, THE DEPARTMENT MAY AFFIRM OR OVERRULE ITS PREVIOUS DECISION, OR MODIFY THE TERMS OF THE CONDITIONAL LICENSE AND PLAN OF CORRECTION. THE CONDITIONAL LICENSE MAY BE ISSUED AFTER THE INFORMAL CONFERENCE OR AFTER THE TIME FOR REQUESTING AN INFORMAL CONFERENCE HAS EXPIRED, PRIOR TO ANY FURTHER HEARING.~~

~~d) IF THE APPLICANT OR LICENSEE DESIRES TO PROTEST THE BASIS FOR ISSUANCE OF A CONDITIONAL LICENSE, OR THE TERMS OF THE PLAN OF CORRECTION, THE APPLICANT OR LICENSEE SHALL SEND A WRITTEN REQUEST FOR HEARING TO THE DEPARTMENT WITHIN TEN (10) DAYS AFTER RECEIPT~~

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## Section 300.260(d) (continued)

BY THE APPLICANT OR LICENSEE OF THE DEPARTMENT'S NOTICE AND DECISION TO ISSUE A CONDITIONAL LICENSE. THE DEPARTMENT SHALL HOLD THE HEARING AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. 1987 ~~1985 Supp.~~, ch. 111 1/2, par. 4153-315)

~~e) A CONDITIONAL LICENSE SHALL BE ISSUED FOR A PERIOD SPECIFIED BY THE DEPARTMENT, BUT IN NO EVENT FOR MORE THAN ONE (1) YEAR. THE DEPARTMENT SHALL PERIODICALLY INSPECT ANY FACILITY OPERATING UNDER A CONDITIONAL LICENSE. IF THE DEPARTMENT FINDS SUBSTANTIAL FAILURE BY THE FACILITY TO CORRECT THE VIOLATIONS WHICH PREVENTED FULL LICENSURE AND FORMED THE BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A CONDITIONAL LICENSE IN ACCORDANCE WITH THE REQUIRED PLAN OF CORRECTION, THE CONDITIONAL LICENSE MAY BE REVOKED AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. 1987 ~~1985 Supp.~~, ch. 111 1/2, par. 4153-316)~~

~~g) IF THE DEPARTMENT DETERMINES THAT A CONDITIONAL LICENSE SHALL EXPIRE WITHOUT RENEWAL OR REPLACEMENT OF THE CONDITIONAL LICENSE BY A REGULAR LICENSE, THE DEPARTMENT SHALL SO NOTIFY THE LICENSEE AT LEAST THIRTY (30) DAYS PRIOR TO EXPIRATION OF THE LICENSE. THE LICENSEE IS ENTITLED TO A HEARING UNDER THE ACT IF REQUESTED PRIOR TO EXPIRATION OF THE LICENSE.~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.270 Monitor and Receivership

a) THE DEPARTMENT MAY PLACE AN EMPLOYEE OR AGENT TO SERVE AS A MONITOR IN A FACILITY WHEN ANY OF THE FOLLOWING CONDITIONS EXIST:

- 1) THE FACILITY IS OPERATING WITHOUT A LICENSE;
- 2) THE DEPARTMENT HAS SUSPENDED, REVOKED OR REFUSED TO RENEW THE EXISTING LICENSE OF THE FACILITY;
- 3) THE FACILITY IS CLOSING OR HAS INFORMED THE DEPARTMENT THAT IT INTENDS TO CLOSE AND ADEQUATE ARRANGEMENTS FOR RELOCATION OF RESIDENTS HAVE NOT BEEN MADE AT LEAST 30 DAYS PRIOR TO CLOSURE; OR
- 4) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS, WHETHER OR NOT IT HAS INITIATED REVOCATION OR NONRENEWAL PROCEDURES, IF BECAUSE OF THE UNWILLINGNESS OF INABILITY OF THE LICENSEE TO REMEDY THE EMERGENCY THE DEPARTMENT BELIEVES A MONITOR IS



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## Section 300.270(a)(4) (continued)

## NECESSARY; or

5) The Department receives notification that THE FACILITY IS TERMINATED OR WILL NOT BE RENEWED FOR PARTICIPATION IN THE FEDERAL REIMBURSEMENT PROGRAM UNDER EITHER TITLE XVIII (Medicaid) OR TITLE XIX (Medicare) OF THE SOCIAL SECURITY ACT. (Ill. Rev. Stat. 1987 ~~1983~~, ch. 111 1/2, par. 4153-501)

b) The monitor shall meet the following minimum requirements:

- 1) be in good physical health as evidenced by a physical examination by a physician within the last year.
- 2) have an understanding of the needs of nursing home residents as evidenced by one year of experience in working with the elderly in programs such as patient care, social work, or advocacy.
- 3) have an understanding of the ~~Nursing Home Care Reform~~ Act ~~(hereinafter, the Act)~~ and this Part ~~the rules and regulations promulgated to enforce the Act~~ which are the subject of the monitors' duties as evidenced in a personal interview of the candidate.
- 4) not be related to the owners of the involved facility either through blood, marriage or common ownership of real or personal property except ownership of stock that is traded on a stock exchange.
- 5) successfully completed a baccalaureate degree; ~~and/or~~ and
- 6) two years full-time work experience in the long-term care industry of the State of Illinois.

c) The monitor shall be under the supervision of the ~~Division of Enforcement, Office of Health Regulation, Illinois~~ Department ~~of Public Health~~; shall perform the duties of a monitor delineated in Section 3-502 of the Act; and accomplish the following actions:

- 1) visit the facility at least five ~~(5)~~ days per week or as directed by the Department;
- 2) review all records pertinent to the condition for such monitor's placement under subsection (a) ~~above~~ of this section;
- 3) provide to the Department ~~Division of Enforcement, Office of~~

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## Section 300.270(a)(3) (continued)

~~Health Regulation~~, a weekly written report and a daily oral report detailing the observed conditions of the facility; and

- 4) shall be available as a witness for hearings involving the condition for placement as monitor.
- d) All communications, including but not limited to data, memoranda, correspondence, records and reports shall be transmitted to and become the property of the Department, plus, findings and results of the monitor's work done under these rules and regulations shall be strictly confidential and not subject to disclosure without written authorization from the Department ~~Division of Enforcement, Office of Health Regulation~~ or by court order subject to disclosure only in accordance with the provisions of the Freedom of Information Act, subject to the confidentiality requirements of the ~~Nursing Home Care Reform~~ Act ~~of 1979~~.
- e) The assignment as monitor may be terminated at any time by the Department ~~Division of Enforcement, Office of Health Regulation~~.
- f) Through consultation with the long-term care industry associations, professional organizations, consumer groups and health-care management corporations, the Department shall maintain a list of receivers. Preference on the list shall be given to individuals possessing a valid Illinois Nursing Home Administrator's License, experience in financial and operations management of a long-term care facility and individuals with access to consultative experts with the aforementioned experience. To be placed on the list, individuals must meet the following minimum requirements:

- 1) be in good physical health as evidenced by a physical examination by a physician within the last year.
- 2) have an understanding of the needs of nursing home residents and the delivery of the highest possible quality of care as evidenced by one year of experience in working with the elderly in programs such as patient care, social work, or advocacy.
- 3) have an understanding and working knowledge of the Act, rules and regulations promulgated thereunder as evidenced in a personal interview of the candidate.
- 4) have successfully completed a baccalaureate degree; and
- 5) have two years full-time working experience in the Illinois

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Section 300.270(f)(5) (continued)

long-term care industry.

- g) Upon appointment of a receiver for a facility by a court, the Department shall inform the individual of all legal proceedings to date which concern the facility.
- h) The receiver may request that the Director of the Department authorize expenditures from monies appropriated, pursuant to Section 3-511 of the Act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.
- i) In the case of Department ordered patient transfers, the receiver may:
  - 1) assist in providing for the orderly transfer of all residents in the facility to other suitable facilities, or make other provisions for their continued health;
  - 2) assist in providing for transportation of the resident, his medical records and his belongings if he is transferred or discharged; assist in locating alternative placement; assist in preparing the resident for transfer; and permit the resident's legal guardian to participate in the selection of the resident's new location;
  - 3) unless emergency transfer is necessary, explain alternative placements to the resident and provide orientation to the place chosen by the resident or resident's guardian.

- j) IN ANY ACTION OR SPECIAL PROCEEDING BROUGHT AGAINST A RECEIVER IN THE RECEIVER'S OFFICIAL CAPACITY FOR ACTS COMMITTED WHILE CARRYING OUT THE AFORESAID POWERS AND DUTIES, THE RECEIVER SHALL BE CONSIDERED A PUBLIC EMPLOYEE UNDER THE "LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT" (Ill. Rev. Stat. 1987 ~~1983~~, ch. 85, par. 1-101 et seq.) A RECEIVER MAY BE HELD LIABLE IN A PERSONAL CAPACITY ONLY FOR THE RECEIVER'S OWN GROSS NEGLIGENCE, INTENTIONAL ACTS OR BREACH OF FIDUCIARY DUTY. (Ill. Rev. Stat. 1987 ~~1983~~, ch. 111 1/2, par. 4153-513)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 300.272 Determination to Issue a Notice of Violation or Administrative Warning

- a) Upon receipt of a report of an inspection, survey or evaluation of a

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Section 300.272(a) (continued)

- facility, the Director or his designee shall review the findings contained in the report to determine WHETHER THE REPORT'S FINDINGS CONSTITUTE A VIOLATION OR VIOLATIONS OF WHICH THE FACILITY MUST BE GIVEN NOTICE AND WHICH THREATEN THE HEALTH, SAFETY, OR WELFARE OF A RESIDENT OR RESIDENTS. All information, evidence, and observations made during an inspection, survey or evaluation shall be considered findings or deficiencies.
- b) In making this determination, the Director or his designee shall consider any COMMENTS AND DOCUMENTATION PROVIDED BY THE FACILITY within ~~10~~ ten days of receipt of the report in accordance with Section 300.200(c).
  - c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his designee shall base his determination on the following factors:
    - 1) THE SEVERITY OF THE FINDING. The Director or his designee will consider whether the finding constitutes a merely technical non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the standard.
    - 2) THE DANGER POSED TO RESIDENT HEALTH AND SAFETY. The Director or his designee will consider whether the finding could pose any direct ~~or indirect~~ harm to the residents.
    - 3) THE DILIGENCE AND EFFORTS TO CORRECT DEFICIENCIES AND CORRECTION OF REPORTED DEFICIENCIES BY THE FACILITY. Consideration will be given to any evidence provided by the facility in its comments and documentation that steps have been taken to reduce noted findings and to insure a reduction of deficiencies.
    - 4) THE FREQUENCY AND DURATION OF SIMILAR FINDINGS IN PREVIOUS REPORTS AND THE FACILITY'S GENERAL INSPECTION HISTORY. The director or his designee will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-212(c))

- d) If the Director or his designee determines that the report's findings constitute a violation or violations which do not directly threaten the health, safety, or welfare of a resident or residents, the



## Section 300.272(d) (continued)

DEPARTMENT SHALL ISSUE AN ADMINISTRATIVE WARNING AS PROVIDED IN  
Section 300.277. (Ill. Rev. Stat. 1987, ch. 111 1/2, par.  
4153-303.2(a))

e) ~~d)~~ VIOLATIONS SHALL BE DETERMINED UNDER THIS SECTION NO LATER THAN 60  
DAYS AFTER COMPLETION OF EACH INSPECTION, SURVEY AND EVALUATION.  
(Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-212(c))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.274 Determination of the Level of a Violation

a) After determining that issuance of a notice of violation is warranted  
and prior to issuance of the notice, the Director or his designee  
will review the findings which are the basis of the violation and any  
comments and documentation provided by the facility to determine the  
level of the violation. Each violation shall be determined to be  
either a level A ~~or level B~~ ~~or level C~~ violation based on the  
criteria outlined in this Section.

b) The following definitions of levels of violations shall be used in  
determining the level of each violation:

- 1) A "level A violation" or "type A violation" is A VIOLATION OF  
THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE  
RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY  
PRESENTING A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS  
MENTAL OR PHYSICAL HARM WILL RESULT THEREFROM. (Ill. Rev. Stat.  
1987 ~~1985~~, ch. 111 1/2, par. 4151-129)
- 2) A "level B violation" or "type B violation" is A VIOLATION OF  
THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE  
RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY DIRECTLY  
THREATENING TO THE HEALTH, SAFETY OR WELFARE OF A RESIDENT.  
(Ill. Rev. Stat., 1987 ~~1985~~, ch. 111 1/2, par. 4151-310)
- ~~3) A "level C violation" or "type C violation" is A VIOLATION OF  
THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE  
RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY WHICH  
INDIRECTLY THREATENS THE HEALTH, SAFETY OR WELFARE OF A  
RESIDENT. (Ill. Rev. Stat., 1985, ch. 111 1/2, par. 4151-131)~~
- c) In determining the level of a violation, the Director or his designee  
shall consider the following criteria:

## Section 300.274(c) (continued)

1) The specific requirements of this Part which have been violated  
and the designated level of violation for those provisions.

A) The designated level of violation is indicated by the  
letter or letters in parentheses following specific  
provisions. The presence of more than one letter following  
a specific provision indicates that the provision may be  
applicable to different levels of violation. The absence  
of any letter following a specific provision indicates that  
no designated level of violation applicable to that  
provision has been determined.

B) The designated level of violation will be considered in  
conjunction with the other criteria contained in  
subsections (c)(2) and (c)(3) of this Section which may  
increase or decrease the level of violation cited for a  
specific violation, except that no violation ~~of a~~  
~~requirement designated as level C~~ will be cited as a  
level B violation unless there is a direct threat to the  
health, safety or welfare of a resident, or as a level A  
violation unless there is a substantial probability of the  
death of a resident or serious mental or physical harm to a  
resident.

2) The degree of danger to the resident or residents which is posed  
by the condition or occurrence in the facility. The following  
factors will be considered in assessing the degree of danger:

- A) Whether the resident or residents of the facility are able  
to recognize conditions or occurrences which may be harmful  
and are able to take measures for self-preservation and  
self-protection. The extent of nursing care required by  
the residents as indicated by review of patient needs will  
be considered in relation to this determination.
- B) Whether the resident or residents have access to the area  
of the facility in which the condition or occurrence exists  
and the extent of such access. A facility's use of  
barriers, warning notices, instructions to staff and other  
means of restricting resident access to hazardous areas  
will be considered.
- C) Whether the condition or occurrence was the result of  
inherently hazardous activities or negligence by the  
facility.

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## Section 300.274(c)(2) (continued)

D) Whether the resident or residents of the facility were notified of the condition or occurrence and the promptness of such notice. Failure of the facility to notify residents of potentially harmful conditions or occurrences will be considered. The adequacy of the method of such notification and the extent to which such notification reduced the potential danger to the residents will also be considered.

3) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility. In assessing the directness and imminence of the danger, the following factors will be considered:

A) Whether actual harm, including death, physical injury or illness, mental injury or illness, distress, or pain, to a resident or residents resulted from the condition or occurrence and the extent of such harm.

B) Whether available statistics and records from similar facilities indicate that direct and imminent danger to the resident or residents has resulted from similar conditions or occurrences and the frequency of such danger.

C) Whether professional opinions and findings indicate that direct and imminent danger to the resident or residents will result from the condition or occurrence.

D) Whether the condition or occurrence was limited to a specific area of the facility or was widespread throughout the facility. Efforts taken by the facility to limit or reduce the scope of the area affected by the condition or occurrence will be considered.

E) Whether the physical, mental, or emotional state of the resident or residents, who are subject to the danger, would facilitate or hinder harm actually resulting from the condition or occurrence.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.276 Notice of Violation

a) EACH NOTICE OF VIOLATION SHALL BE IN WRITING AND SHALL CONTAIN THE

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## Section 300.276(a) (continued)

## FOLLOWING INFORMATION:

1) A description of THE NATURE OF THE VIOLATION.

2) A citation of the specific STATUTORY PROVISION OR RULE which the Department believes has been violated. (Ill. Rev. Stat. 1987 ~~1995~~, ch. 111 1/2, par. 4153-301)

3) A statement of the level of the violation as determined pursuant to Section 300.274.

4) One of the following requirements for corrective action:

A) For level A violations, a statement that necessary corrective action to ABATE OR ELIMINATE the violation must be taken IMMEDIATELY or within a specific FIXED PERIOD OF TIME NOT EXCEEDING 15 DAYS. In setting this period, the Department will consider whether harm to residents of the facility is imminent, whether necessary precautions can be taken to protect residents before the corrective action is completed, and whether delay would pose additional risks to the residents.

B) For level B violations ~~and level C violations~~, a REQUEST that the facility submit A PLAN OF CORRECTION WITHIN ~~10~~ TEN DAYS OF THE RECEIPT OF THE NOTICE OF VIOLATION pursuant to Section 3-303 of the Act (Ill. Rev. Stat. 1987 ~~1995~~, ch. 111 1/2, par. 4153-303) and Section 300.278 of this Part.

5) A statement that the Department may take additional action under the Act, including assessment of penalties or licensure action.

6) A description of the licensee's right to appeal the notice and its right to a hearing.

b) Each notice of violation shall be sent to the facility and the licensee ~~by registered mail~~ or served personally at the facility WITHIN TEN DAYS after the Director or his designee determines that issuance of a notice of violation is warranted under Section 300.272 (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-301).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 300.277 Administrative Warning

- a) Each administrative warning shall be in writing and shall include the following information:

- 1) A description of the nature of the violation.
- 2) A citation of the specific statutory provision or rule which the Department believes has been violated.
- 3) A statement that the FACILITY SHALL BE RESPONSIBLE FOR CORRECTING THE SITUATION, CONDITION, OR PRACTICE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(a))

- b) Each administrative warning shall be sent to the facility and the licensee or served personally at the facility within ten days after the Director or his designee determines that issuance of an administrative warning is warranted under Section 300.272.

- c) The facility is not required to submit a plan of correction in response to an administrative warning.

- d) If the Department finds, during THE NEXT ON-SITE INSPECTION WHICH OCCURS MORE THAN 90 DAYS AFTER THE ISSUANCE OF THE ADMINISTRATIVE WARNING, that the facility has not CORRECTED THE SITUATION, CONDITION, OR PRACTICE WHICH RESULTED IN THE ISSUANCE OF THE ADMINISTRATIVE WARNING, the Department shall notify the facility of the finding. The facility must then SUBMIT A WRITTEN PLAN OF CORRECTION as provided in Section 300.278. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(b))

(Source: Added at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.278 Plans of Correction

- a) A FACILITY SHALL HAVE ~~10~~ TEN DAYS AFTER RECEIPT OF A NOTICE OF VIOLATION FOR A LEVEL B ~~OR LEVEL C~~ VIOLATION, or after receipt of a notice under Section 300.277(d) of failure to correct a situation, condition, or practice which resulted in the issuance of an administrative warning, TO PREPARE AND SUBMIT A PLAN OF CORRECTION to the Department.
- b) Within the ~~10~~ ten-day period, a facility may request additional time for submission of the plan of correction. The Department will extend the period for submission of the plan of correction for an additional 30 days, when it finds that corrective action by a

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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.278(b) (continued)

facility to abate or eliminate the violation will require SUBSTANTIAL CAPITAL IMPROVEMENT. The Department will consider the extent and complexity of necessary physical plant repairs and improvements and any impact on the health, safety, or welfare of the residents of the facility in determining whether to grant a requested extension.

- c) Each plan of correction shall be based on an assessment by the facility of the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each plan of correction shall include:
- 1) A description of the specific corrective action the facility is taking, or plans to take, to abate, eliminate, or correct the violation cited in the notice.
  - 2) A description of the steps which will be taken to avoid future occurrences of the same and similar violations.
  - 3) A specific date by which the corrective action will be completed.

- d) Submission of a plan of correction shall not be considered an admission by the facility that the violation has occurred.

- e) The Department shall review each plan of correction to insure that it provides for the abatement, elimination, or correction of the violation. The Department shall reject a submitted plan only if it finds any of the following deficiencies:

- 1) The plan does not appear to address the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences.
- 2) The plan is not specific enough to indicate the actual actions the facility will be taking to abate, eliminate, or correct the violation.
- 3) The plan does not provide for measures which will abate or eliminate, or correct the violation.
- 4) The plan does not provide steps which will avoid future occurrences of the same and similar violations.

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## Section 300.278(e) (continued)

- 5) The plan does not provide for timely completion of the corrective action, considering the seriousness of the violation, any possible harm to the residents, and the extent and complexity of the corrective action.
- f) When the Department rejects a submitted plan of correction, it shall notify the facility. The notice of rejection shall be in writing and shall specify THE REASON FOR THE REJECTION. THE FACILITY SHALL HAVE ~~10~~ TEN DAYS AFTER RECEIPT OF THE NOTICE OF REJECTION TO SUBMIT A MODIFIED PLAN.
- g) If a facility fails to submit a plan or modified plan meeting the criteria in subsection (c) within the prescribed time periods in subsection (a) or subsection (d), AN APPROVED PLAN OF CORRECTION WILL BE IMPOSED BY THE DEPARTMENT. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-303(b))
- h) The Department shall verify the completion of the corrective action required by the plan of correction within the specified time period during subsequent investigations, surveys and evaluations of the facility.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.280 Reports of Correction

- a) In lieu of submission of a plan of correction, a facility may submit a report of correction if the corrective action has been completed. The report of correction must be submitted within the time periods required in Section 300.278 for submission of a plan of correction.
- b) Each report of correction shall be based on an assessment by the facility of the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each report of correction shall include:
  - 1) A description of the specific corrective action the facility has taken to abate, eliminate, or correct the violation cited in the notice.
  - 2) A description of the steps which have been taken to avoid future occurrences of the same and similar violations.

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## Section 300.280(b) (continued)

- 3) The specific date on which the corrective action was completed.
- 4) A signed statement by the administrator of the facility that the report of correction is true and accurate, which shall be considered an oath for the purposes of any legal proceedings.
- c) Submission of a report of correction shall not be considered an admission by the facility that the violation has occurred.
- d) The Department shall review and approve or disapprove the report of correction based on the criteria outlined in Section 300.278(d) for review of plans of correction. If a report of correction is disapproved, the facility shall be subject to a plan of correction imposed by the Department as provided in Section 300.278.
- e) The Department shall verify the completion of the corrective action outlined in the report of correction during subsequent investigations, surveys and evaluations of the facility.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.282 Conditions for Assessment of Penalties

The Department shall consider the assessment of a monetary penalty against a facility under the following conditions:

- a) When a notice of violation for a level A violation is issued.
  - 1) The penalty to be assessed for this violation shall be the greater of the following:
    - A) An amount NOT LESS THAN \$5000 as determined by the Director or his designee considering the factors outlined in Section 300.286(a), or
    - B) The total of the following:
      - i) \$5 PER RESIDENT IN THE FACILITY, PLUS
      - ii) \$.20 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE DAY ON WHICH THE NOTICE OF VIOLATION IS RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(1))



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## Section 300.282(a) (continued)

- 2) The facility shall also be issued a conditional license for a period of six months as provided in Section 300.260.
- b) When a facility fails to abate or eliminate a level A violation immediately or within the period set by the Department in the notice of violation pursuant to Section 300.276(a)(4)(A).
- 1) The facility shall be cited for a repeat violation.
- 2) The penalty to be assessed shall be three times the penalty computed under subsection (a)(1) of this Section.
- 3) The license of the facility shall be revoked as provided in Section 300.180.
- c) When a notice of violation for a level B violation is issued.
- 1) The penalty to be assessed for this violation shall be the greater of the following:
- A) An amount NOT LESS THAN \$500 as determined by the Director or his designee considering the factors outlined in Section 300.286(a), or
- B) The total of the following:

1) \$3 PER RESIDENT IN THE FACILITY, PLUS

ii) \$.15 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE DAY ON WHICH THE NOTICE OF VIOLATION IS RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(2))

- 2) Upon acceptance of a plan of correction by the Department, assessment of the penalty shall be suspended by the Department. No additional penalty shall be imposed for days during which the plan of correction is in effect.
- d) When a facility fails to correct a level B violation within the time period specified in the plan of correction approved by the Department.
- 1) The facility shall be cited for a repeat violation.
- 2) The penalty to be assessed shall be computed in accordance with

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## Section 300.282(d)(2) (continued)

- subsection (c)(1) of this Section. Days during which the plan of correction was in effect shall be included in the calculation of the penalty.
- 3) The facility shall also be issued a conditional license for a period of at least six months as provided in Section 300.260.
- e) ~~When a facility fails to implement the corrective action required in the plans of correction for ten or more level C violations within the time period required in the plans of correction approved by the Department and fails to substantially address the issues raised by the violations routinely throughout the facility.~~
- 1) ~~The facility shall be cited for repeat violations.~~
- 2) ~~The penalty to be assessed shall be calculated as the total of the following:~~
- A) ~~\$1.50 PER RESIDENT IN THE FACILITY, PLUS~~
- B) ~~\$.10 PER RESIDENT FOR EACH DAY OF THE REPEAT VIOLATIONS, COMMENCING ON THE DAY ON WHICH THE NOTICES OF THE REPEAT VIOLATIONS ARE RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 4153-305(3))~~

- f) WHEN A NOTICE OF VIOLATION IS ISSUED FOR A VIOLATION OF ARTICLE II OF THE ACT (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-101 through par. 4152-212) WITH REGARD TO THE RIGHTS OF A PARTICULAR RESIDENT OF THE FACILITY, THE DEPARTMENT SHALL ORDER THE FACILITY TO REIMBURSE THE RESIDENTS FOR ANY INJURIES INCURRED OR IF THE AMOUNT OF THE INJURIES IS LESS THAN \$100, THE DEPARTMENT SHALL ORDER THE FACILITY TO PAY \$100 TO THE RESIDENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(7))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.284 Calculation of Penalties

- a) For the purpose of calculating penalties as provided in Section 300.282, EACH DAY ON WHICH A VIOLATION CONTINUES TO EXIST AFTER THE DAY ON WHICH NOTICE OF THE VIOLATION IS RECEIVED BY THE FACILITY SHALL BE CONSIDERED A SEPARATE VIOLATION. The Department shall not be required to send additional notices of violation to the facility

## NOTICE OF PROPOSED AMENDMENTS

## Section 300.284(a) (continued)

for such continuing violations. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-302)

- b) For purposes of calculating penalties as provided in Section 300.282, THE NUMBER OF RESIDENTS IN THE FACILITY AND THE NUMBER OF RESIDENTS ON EACH DAY SHALL BE CALCULATED AS THE AVERAGE NUMBER OF RESIDENTS IN THE FACILITY DURING THE ~~thirty~~ 30 DAYS IMMEDIATELY PRECEDING THE DAY ON WHICH THE FINDINGS WERE MADE IN THE FACILITY AND THE CONDITIONS OR OCCURRENCES DETERMINED TO BE A VIOLATION WERE DISCOVERED. The number of residents in the facility on the day on which the findings were made in the facility will be considered to be the same as the average number of residents in the facility during the preceding ~~thirty~~ 30 days, unless evidence is provided by the facility substantiating that the average number of residents for that period was different. Changes in the number of residents in the facility subsequent to the day on which the findings were made shall not be considered in the calculation. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-305(5 ~~6~~))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_ effective \_\_\_\_\_)

## Section 300.286 Determination to Assess Penalties

- a) The Director or his designee shall consider the following factors in determining whether or not to assess penalties for violations under the conditions outlined in Section 300.282.

- 1) THE SEVERITY OF HARM, INCLUDING DEATH OR SERIOUS PHYSICAL OR MENTAL HARM, WHICH HAS RESULTED TO A RESIDENT AND THE EXTENT TO WHICH RESIDENTS HAVE BEEN SUBJECT TO POTENTIAL SERIOUS HARM. A penalty will be assessed when the Director or his designee finds that death or serious physical or mental harm to a resident has occurred or that the facility has knowingly subjected residents to potential serious harm.
- 2) THE GRAVITY OF THE VIOLATION AND THE EXTENT TO WHICH THE PROVISIONS OF THE ACT OR RULES WERE VIOLATED. The Director or his designee will assess a monetary penalty if he finds that the violation recurred or continued, is widespread throughout the facility or evidences flagrant violation or the Act or these rules.
- 3) THE EXTENT AND SERIOUSNESS OF ANY PREVIOUS VIOLATIONS COMMITTED BY THE FACILITY AND THE EXTENT OF DILIGENCE EXERCISED BY THE

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## Section 300.286(a)(3) (continued)

FACILITY TO CORRECT SUCH VIOLATIONS. The Director or his designee will assess a penalty when he finds that the facility has been cited for similar violations and has failed to correct such violations as promptly as practicable or has failed to exercise diligence in taking necessary corrective action. The Director or his designee will also consider any evidence that the violations constitute a pattern of deliberate action by the facility. The extent of any change in the ownership and management of the facility will be considered in relation to the seriousness of previous violations.

- 4) ANY POSSIBLE FINANCIAL BENEFIT THE FACILITY COULD GAIN AS A RESULT OF COMMITTING OR CONTINUING THE VIOLATION. Such benefits include, but are not limited to, diversion of costs associated with physical plant repairs, staff salaries, consultant fees, or direct patient care services. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-306)

- b) If the Director or his designee determines that a penalty is to be assessed, a written notice of penalty assessment shall be sent to the facility ~~by registered mail~~. Each notice of penalty assessment shall include:

- 1) THE AMOUNT OF THE PENALTY being assessed as provided in Section 300.282.
- 2) The amount of any reduction or whether the penalty has been waived pursuant to Section 300.288.
- 3) A description of THE VIOLATION, including a reference to the notices of violation and plans of correction which are the basis of the assessment.
- 4) A citation to the provision of THE ACT OR THE RULE which the facility has violated.
- 5) A description of the right of the facility to appeal the assessment and of the RIGHT OF THE FACILITY TO A HEARING.
- 6) For violations which are continuing at the time the notice of assessment, THE AMOUNT OF ADDITIONAL PENALTIES PER DAY which will be assessed. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-307)
- c) Penalties shall be paid by the facility to the Department within the



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## Section 300.286(c) (continued)

time periods provided in Section 3-310 of the Act. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-310)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.288 Reduction or Waiver of Penalties

- a) Reductions for all types of violations subject to penalties.
- 1) The Director or his designee shall consider the factors contained in Section 300.286(a) in determining whether to reduce the amount of the penalty to be assessed from the amount calculated pursuant to Section 300.284 and in determining the amount of such reduction.
  - 2) When the Director or his designee finds that correction of a violation required capital improvements or repairs in the physical plant of the facility and the facility has a history of compliance with physical plant requirements, the penalty will be reduced by the amount of the cost of the improvements or repairs. This reduction, however, shall not reduce the penalty for a level A violation to an amount less than \$1000.
- b) Reductions and waivers for level B violations.
- 1) Penalties resulting from level B violations may be reduced or waived only under one of the following conditions:
    - A) THE FACILITY SUBMITS A REPORT OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, and the report is subsequently verified by the Department.
    - B) THE FACILITY SUBMITS A PLAN OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, the plan is approved by the Department, THE FACILITY SUBMITS A REPORT OF CORRECTION WITHIN ~~FIFTEEN~~ 15 DAYS after submission of the plan or correction, and the report is subsequently verified by the Department.
    - C) THE FACILITY SUBMITS A PLAN OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, THE PLAN PROVIDES FOR CORRECTION WITHIN NOT MORE THAN ~~THIRTY~~ 30 DAYS after submission of the plan of correction, and THE PLAN IS APPROVED BY THE DEPARTMENT.

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## Section 300.288(b)(1) (continued)

- D) Correction of the violation requires substantial capital improvements or repairs in the physical plant of the facility, THE FACILITY SUBMITS A PLAN OR CORRECTION INVOLVING SUBSTANTIAL CAPITAL COSTS, THE PLAN OF CORRECTION PROVIDES COMPLETION OF THE CORRECTIVE ACTION WITHIN ~~NINETY~~ 90 DAYS after submission of the plan, and the plan is approved by the Department. (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-308)
- 2) Under these conditions, the Director or his designee shall consider the factors outlined in Section 300.286(a) in determining whether to reduce or waive the penalty and in setting the amount of any reduction.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.290 Quarterly List of Violators

- a) THE DEPARTMENT SHALL PREPARE ON A QUARTERLY BASIS A LIST CONTAINING THE NAMES AND ADDRESSES OF ALL FACILITIES AGAINST WHICH THE DEPARTMENT DURING THE PREVIOUS QUARTER HAS:
- 1) Issued a NOTICE OF PENALTY ASSESSMENT for a level A violation as provided in Section 300.286 and Section 3-305(1) of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-305(1)). ~~sent a notice under Section 3-307 regarding a penalty assessment under subsections (1), (3), (4) or (5) of Section 3-305;~~
  - 2) Issued a NOTICE OF REVOCATION of the facility's license as provided in Section 300.180 and ~~sent a notice of license revocation under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119);
  - 3) Issued a NOTICE REFUSING RENEWAL of the facility's license as provided in Section 300.175 and ~~sent a notice refusing renewal of a license under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119);
  - 4) Issued a NOTICE TO SUSPEND a license under Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119);
  - 5) ISSUED A CONDITIONAL LICENSE to the facility as provided in Section 300.260 and Section 3-313 of the Act (Ill. Rev. Stat.

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## Section 300.290(a)(5) (continued)

1987, ch. 111 1/2, par. 4153-119) and the violations which were the basis of the issuance of the conditional license HAVE NOT BEEN CORRECTED. ~~Issued a conditional license for violations and penalties described under Sections 3-301 and 3-303;~~

- 6) PLACED A MONITOR IN THE FACILITY as provided in Section 300.270 and Section 3-501 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-501) for one of the following reasons: ~~placed a monitor under subsections (a), (b) and (c) of Section 3-501 and under subsection (d) of such Section where license revocation or nonrenewal notices have also been issued;~~

- A) The facility is operating without a license.  
 B) The Department has revoked or refused to renew the license of the facility.  
 C) The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure.  
 D) The Department determines that an emergency exists and HAS ISSUED A NOTICE OF REVOCATION OR NONRENEWAL against the facility's license.

- 7) INITIATED AN ACTION TO APPOINT A RECEIVER. ~~---~~  
 8) RECOMMENDED TO THE DIRECTOR OF THE DEPARTMENT OF PUBLIC AID, OR THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE DECERTIFICATION FOR VIOLATIONS IN RELATION TO PATIENT CARE OF A FACILITY PURSUANT TO TITLES XVIII AND XIX (42 U.S.C. Sections 1395 et seq. and 1396 et seq.) OF THE FEDERAL SOCIAL SECURITY ACT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-304(a))

- b) IN ADDITION TO THE NAME AND ADDRESS OF THE FACILITY, THE LIST SHALL INCLUDE THE NAME AND ADDRESS OF THE PERSON OR LICENSEE AGAINST WHOM THE ACTION HAS BEEN INITIATED, A SELF-EXPLANATORY SUMMARY OF THE FACTS WHICH WARRANTED THE INITIATION OF EACH ACTION, THE TYPE OF ACTION INITIATED, THE DATE OF THE INITIATION OF THE ACTION, THE AMOUNT OF THE PENALTY SOUGHT TO BE ASSESSED, IF ANY, AND THE FINAL DISPOSITION OF THE ACTION, IF COMPLETED. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-304(b))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.300 Alcoholism Treatment Programs In Long-Term Care Facilities

- a) A long-term care facility that desires to provide an alcoholism treatment program must first receive written approval from ~~both the Department Division of Health Facilities Surveillance and the Division of Health Facilities Standards~~. Such approval will be granted only if it can be shown that such program will not interfere in any way with the residents in the other parts of the facility. ~~(C)~~

- b) Any alcoholism treatment program in a long-term care facility must meet the program standards of the rules for Alcoholism and Substance Abuse Treatment, Intervention and Research Programs ~~Alcoholism and Intoxication Treatment Programs~~ (77 Ill. Adm. Code 2058-200-), as promulgated by the Illinois Department of Alcoholism and Substance Abuse ~~Public Health~~ under the Illinois Alcoholism and Other Drug Dependency Act ~~Alcoholism Treatment Licensing Act~~ (Ill. Rev. Stat. 1987 ~~1979~~, ch. 111 1/2, par. 1-101 ~~2301~~ et seq.) ~~(C)~~

- c) The alcoholism treatment program must be in a completely separate distinct part of the long-term care facility, and must include all beds in that distinct part. It must be completely separated from the rest of the facility, and have separate entrances. ~~(C)~~

- d) Beds designated for alcoholism treatment cannot be used for long-term care residents, nor can beds designated for long-term care residents be used for residents undergoing treatment for alcoholism. ~~(C)~~

- e) The alcoholism treatment program staff will not be utilized in performing services in the long-term care area of the facility, nor will long-term care program staff be utilized to provide any services in the alcoholism treatment designated area. ~~(C)~~

- f) There may be joint use of laundry, food service, housekeeping and administrative services, provided written approval is obtained from the Department ~~Division of Health Facilities Surveillance~~. Such approval will be granted only if it can be shown that such joint usage will not interfere in any way with the residents in other parts of the facility. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.310 Department May Survey Facilities Formerly Licensed

THE DEPARTMENT MAY SURVEY ANY FORMER FACILITY WHICH ONCE HELD A LICENSE TO



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## Section 300.310 (continued)

INSURE THAT THE FACILITY IS NOT AGAIN OPERATING WITHOUT A LICENSE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-107)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.320 Waivers

- a) UPON APPLICATION BY A FACILITY, THE DIRECTOR MAY GRANT OR RENEW THE WAIVER OF THE FACILITY'S COMPLIANCE WITH A RULE OR STANDARD FOR A PERIOD NOT TO EXCEED THE DURATION OF THE CURRENT LICENSE OR, IN THE CASE OF AN APPLICATION FOR LICENSE RENEWAL, THE DURATION OF THE RENEWAL PERIOD.
- b) THE WAIVER MAY BE CONDITIONED UPON THE FACILITY TAKING ACTION PRESCRIBED BY THE DIRECTOR AS A MEASURE EQUIVALENT TO COMPLIANCE.
- c) IN DETERMINING WHETHER TO GRANT OR RENEW A WAIVER, THE DIRECTOR SHALL CONSIDER:
  - 1) THE DURATION AND BASIS FOR ANY CURRENT WAIVER WITH RESPECT TO THE SAME RULE OR STANDARD;
  - 2) THE CONTINUED VALIDITY OF EXTENDING THE WAIVER ON THE SAME BASIS;
  - 3) THE EFFECT UPON THE HEALTH AND SAFETY OF RESIDENTS;
  - 4) THE QUALITY OF RESIDENT CARE (~~1-e~~ whether the waiver would reduce the overall quality of the resident care below that required by the Act);
  - 5) THE FACILITY'S HISTORY OF COMPLIANCE WITH THE RULES AND STANDARDS OF THIS ACT (~~1-e~~ the existence of a consistent pattern of violation of the Act or rules of this Part); and
  - 6) THE FACILITY'S ATTEMPTS TO COMPLY WITH THE PARTICULAR RULE OR STANDARD IN QUESTION.
- d) THE DEPARTMENT SHALL RENEW WAIVERS RELATING TO PHYSICAL PLANT STANDARDS ISSUED PURSUANT TO THIS SECTION AT THE TIME OF THE INDICATED REVIEWS, UNLESS IT CAN SHOW WHY SUCH WAIVERS SHOULD NOT BE EXTENDED FOR THE FOLLOWING REASONS:
  - 1) THE CONDITION OF THE PHYSICAL PLANT HAS DETERIORATED OR ITS USE SUBSTANTIALLY CHANGED SO THAT THE BASIS UPON WHICH THE WAIVER

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WAS ISSUED IS MATERIALLY DIFFERENT; OR

- 2) THE FACILITY IS RENOVATED OR SUBSTANTIALLY REMODELED IN SUCH A WAY AS TO PERMIT COMPLIANCE WITH THE APPLICABLE RULES AND STANDARDS WITHOUT SUBSTANTIAL INCREASE IN COST. (Ill. Rev. Stat. 1987 ~~1995 Supp.~~, ch. 111 1/2, par. 4153-303.1)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.330 Definitions

- a) ~~Each definition is considered to be a separate rule, but they are not given individual numbers because they are listed alphabetically, and numbers would have to be changed each time a new definition was added or deleted.~~

~~b)~~

The terms defined in this Section ~~below~~ are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

ABUSE - ANY PHYSICAL OR MENTAL INJURY OR SEXUAL ASSAULT INFLICTED ON A RESIDENT OTHER THAN BY ACCIDENTAL MEANS IN A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-103)

ACCESS - THE RIGHT TO:

ENTER ANY FACILITY:

COMMUNICATE PRIVATELY AND WITHOUT RESTRICTION WITH ANY RESIDENT WHO CONSENTS TO THE COMMUNICATION;

SEEK CONSENT TO COMMUNICATE PRIVATELY AND WITHOUT RESTRICTION WITH ANY RESIDENT;

INSPECT THE CLINICAL AND OTHER RECORDS OF A RESIDENT WITH THE EXPRESS WRITTEN CONSENT OF THE RESIDENT;

OBSERVE ALL AREAS OF THE FACILITY EXCEPT THE LIVING AREA OF ANY RESIDENT WHO PROTESTS THE OBSERVATION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-104)

~~The~~ Act - as used in this Part ~~these standards~~, the "Nursing

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Home Care ~~Reform~~ Act" (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.) ~~of 1979, as amended.~~

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

## AFFILIATE MEANS:

WITH RESPECT TO A PARTNERSHIP, EACH PARTNER THEREOF.

WITH RESPECT TO A CORPORATION, EACH OFFICER, DIRECTOR AND STOCKHOLDER THEREOF.

WITH RESPECT TO A NATURAL PERSON: ANY PERSON RELATED IN THE FIRST DEGREE OF KINSHIP TO THAT PERSON; EACH PARTNERSHIP AND EACH PARTNER THEREOF OF WHICH THAT PERSON OR ANY AFFILIATE OF THAT PERSON IS A PARTNER; AND EACH CORPORATION IN WHICH THAT PERSON OR ANY AFFILIATE OF THAT PERSON IS AN OFFICER, DIRECTOR OR STOCKHOLDER. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-106)

Aide or Orderly - any person providing direct personal care, training

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~~and/or~~ or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

APPLICANT - ANY PERSON MAKING APPLICATION FOR A LICENSE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-107)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial ~~etc.~~ aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.

Autism - A syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; Mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in these regulations means any story or floor level below the main or street floor. Where due to grade difference,



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there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a charge nurse is a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Community Living Facility - see Facility, Community Living.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's ~~his~~ life.

Contract - a binding agreement between a resident or the resident's ~~his~~ guardian (or, if the resident is a minor, the resident's ~~his~~ parent) and the facility or its agent.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse. Examples of physical abuse are restraining a resident, striking, slapping, hitting, or

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withholding food as punishment. Examples of mental abuse are swearing, threatening and seclusion.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Dental Practice Act (Ill. Rev. Stat. ~~1993~~ 1987, ch. 111, par. 2202 et seq.).

Department - as used in these standards means the Illinois Department of Public Health.

Developmentally Disabled - those individuals whose disability is attributable to mental retardation, cerebral palsy, epilepsy, autism, or other pathological conditions which generally originate before such individuals attain age ~~eighteen~~ ~~(18)~~, and which continue, or can be expected to continue, indefinitely, and which constitute a substantial functioning handicap to such individuals.

Developmental Disability - a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairment or combination of mental and physical impairments;

is manifest before age ~~twenty-two~~ ~~(22)~~;

is likely to continue indefinitely;

results in substantial functional limitations in three ~~(3)~~ or more of the following areas of major life activities:

self-care;

receptive and expressive language;

learning;

mobility;

self-direction;

capacity for independent living; and

economic self-sufficiency; and

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reflects the persons's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and individually planned and coordinated.

Dietetic Service Supervisor - a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate of a Department-approved course that provides ~~ninety (90)~~ or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has training and experience in food service supervision and management in a military service equivalent in content to the program in paragraph (2) or (3) of this definition.

Dietitian - a person who:

is eligible for registration by the American Dietetic Association; or

has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one

~~(1)~~ year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Direct Care Aide - Any person who provides nursing care, personal care ~~and/or~~ or psychosocial support to residents of Specialized Living Facilities, regardless of title, and who is not a Qualified Professional, as defined in these rules. Director Care Aides must function under the supervision of a licensed nurse when performing nursing or personal care duties.

Direct Supervision - means that work is performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who

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regularly reviews the work performed, and who is accountable for the results.

DIRECTOR - THE DIRECTOR OF PUBLIC HEALTH OR HIS DESIGNEE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-110)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

DISCHARGE - THE FULL RELEASE OF ANY RESIDENT FROM A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-111)

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility.

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Equivalent of a Graduate Licensed Practical Nurse - a licensed practical nurse, licensed by waiver who successfully passes the proficiency examination approved by the U.S. Department of Health and Human Services shall be considered the equivalent of a licensed practical nurse who is a graduate of an approved school of practical nursing for the purposes of these standards.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.



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Facility, Community Living - a place of residence as limited in these standards for between five ~~45~~ and ~~eighty~~ ~~(80)~~ ambulatory adults who are mildly or moderately mentally retarded with a potential for being absorbed into the mainstream of community life.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in these standards is a facility of three ~~(3)~~ or more persons, or distinct part thereof, serving residents of which more than ~~fifty~~ ~~(50)~~ percent are developmentally disabled. Facilities with any number less than ~~fifty~~ ~~(50)~~ percent of developmentally disabled residents, who are determined by the Department with consultation from the Division of Developmental Disabilities, Illinois Department of Mental Health and Developmental Disabilities to need organized social support and training programs, must comply with the program requirements in these minimum Standards.

FACILITY OR LONG-TERM CARE FACILITY - A PRIVATE HOME, INSTITUTION, BUILDING, RESIDENCE, OR ANY OTHER PLACE, WHETHER OPERATED FOR PROFIT OR NOT, OR A COUNTY HOME FOR THE INFIRM AND CHRONICALLY ILL OPERATED PURSUANT TO "THE COUNTY HOME ACT" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 53, par. 61 et seq.), AS NOW OR HEREAFTER AMENDED, OR BY A COUNTY PURSUANT TO "AN ACT IN RELATION TO HOMES FOR THE AGED", APPROVED JULY 21, 1959 (Ill. Rev. Stat. ~~1983~~ 1987, ch. 34, par. 351 et seq.) AS NOW OR HEREAFTER AMENDED, OR ANY SIMILAR INSTITUTION OPERATED BY A POLITICAL SUBDIVISION OF THE STATE OF ILLINOIS, WHICH PROVIDES, THROUGH ITS OWNERSHIP OR MANAGEMENT, PERSONAL CARE, SHELTERED CARE OR NURSING FOR THREE ~~(3)~~ OR MORE PERSONS, NOT RELATED TO THE APPLICANT OR OWNER BY BLOOD OR MARRIAGE. IT INCLUDES SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES AS THOSE TERMS ARE DEFINED IN TITLE XVII AND TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT (42 U.S.C.A. 1395 et seq. and 1936 et seq.). A "FACILITY" MAY CONSIST OF MORE THAN ONE BUILDING AS LONG AS THE BUILDINGS ARE ON THE SAME TRACT, OR ADJACENT TRACTS OF LAND. HOWEVER, THERE SHALL BE NO MORE THAN ONE "FACILITY" IN ANY ONE BUILDING. "FACILITY" DOES NOT INCLUDE THE FOLLOWING:

A HOME, INSTITUTION, OR OTHER PLACE OPERATED BY THE FEDERAL GOVERNMENT OR AGENCY THEREOF, OR BY THE STATE OF ILLINOIS;

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A HOSPITAL, SANITARIUM, OR OTHER INSTITUTION WHOSE PRINCIPAL ACTIVITY OR BUSINESS IS THE DIAGNOSIS, CARE, AND TREATMENT OF HUMAN ILLNESS THROUGH THE MAINTENANCE AND OPERATION AS ORGANIZED FACILITIES THEREFOR, WHICH IS REQUIRED TO BE LICENSED UNDER THE "HOSPITAL LICENSING ACT" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 142 et seq.) AS NOW OR HEREAFTER AMENDED; OR

ANY "FACILITY FOR CHILD CARE" AS DEFINED IN THE "CHILD CARE ACT OF 1969" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 23, par. 2211 et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-1153)

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two ~~(2)~~ month period of time.

Full-time - means on duty a minimum of ~~thirty-six~~ ~~(36)~~ hours, four ~~(4)~~ days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

GUARDIAN - A PERSON APPOINTED AS A GUARDIAN OF THE PERSON OR GUARDIAN OF THE ESTATE, OR BOTH, OF A RESIDENT UNDER THE "PROBATE ACT OF 1975" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 110 1/2, par. 1-1 et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-1154)

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Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, or Licensed Practical Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not for profit corporation incorporated under, or qualified as a foreign corporation under, the "General Not For Profit Corporation Act" approved July 17, 1943, as heretofore or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 32, par. ~~163a~~ 101.01 et seq.); or, by a county pursuant to "An Act in relation to homes for the aged", approved July 21, 1959, as heretofore or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 34, par. 3561 et seq.); or, pursuant to a trust or endowment established for nonprofit, charitable purposes, and which provides maintenance, personal care, nursing or sheltered care to three ~~(3)~~ or more residents, ~~thirty~~ 90 percent of whom are ~~sixty~~ ~~(60)~~ or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

House Manager - a qualified person on duty ~~forty~~ ~~(40)~~ hours a week managing the Community Living Facility and responsible for its operation and its inhabitants.

Individual Educational Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in these regulations means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1967 Edition).

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Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for The Developmentally Disabled (ICF-DD's) at least one member of the team shall be a Qualified Mental Retardation Professional.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the "Nursing Home Administrators Licensing and Disciplinary Act" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, pars. 3601-3633), as now or hereafter amended.

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

LICENSEE - THE PERSON OR ENTITY LICENSED TO OPERATE THE FACILITY AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-115)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's ~~his~~ life.

MAINTENANCE - FOOD, SHELTER, AND LAUNDRY SERVICES. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-116)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or



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other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of devices such as walkers, crutches, wheelchairs, or wheeled platforms, ~~and so forth.~~

Mobile Resident - any resident who is able to move about either independently or with the aid of assistive devices such as walkers, crutches, wheelchairs, or wheeled platforms, ~~and so forth.~~

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

NEGLECT - A FAILURE IN A FACILITY TO PROVIDE ADEQUATE MEDICAL OR PERSONAL CARE OR MAINTENANCE, WHICH FAILURE RESULTS IN PHYSICAL OR MENTAL INJURY TO A RESIDENT OR IN THE DETERIORATION OF A RESIDENT'S PHYSICAL OR MENTAL CONDITION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-117)

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

NURSE - A REGISTERED NURSE OR A LICENSED PRACTICAL NURSE AS DEFINED IN "THE ILLINOIS NURSING ACT OF 1987" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~3401~~ 3501 et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-118)

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Nursing Assistant - Any person who provides nursing care ~~and/or~~ or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation ~~Registration~~ ~~and Education~~ to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable distinct part of a facility consisting of all the beds within the distinct part, but having no more than ~~seventy-five (75)~~ beds, none of which are more than ~~one hundred twenty (120)~~ feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered with the Department of Professional Regulation ~~Registration and Education~~ as an occupational therapist under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. 1987 ~~1983~~, ch. 111, par. 3701 et seq.).

Occupational Therapy Assistant - a person who is registered with the Department of Professional Regulation ~~Registration and Education~~ as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. 3701 et seq.).

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

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OWNER - THE INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER PERSON WHO OWNS A FACILITY. IN THE EVENT A FACILITY IS OPERATED BY A PERSON WHO LEASES THE PHYSICAL PLANT, WHICH IS OWNED BY ANOTHER PERSON, "OWNER" MEANS THE PERSON WHO OPERATES THE FACILITY, EXCEPT THAT IF THE PERSON WHO OWNS THE PHYSICAL PLANT IS AN AFFILIATE OF THE PERSON WHO OPERATES THE FACILITY AND HAS SIGNIFICANT CONTROL OVER THE DAY-TO-DAY OPERATIONS OF THE FACILITY, THE PERSON WHO OWNS THE PHYSICAL PLANT SHALL INCUR JOINTLY AND SEVERALLY WITH THE OWNER ALL LIABILITIES IMPOSED ON AN OWNER UNDER THE ACT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-119)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

~~Person in Need of Mental Treatment - any person who is mentally ill and who, because of his illness, is reasonably expected to inflict serious physical harm upon himself or another in the near future or is unable to provide for his basic physical needs so as to guard himself from serious harm.~~

PERSONAL CARE - ASSISTANCE WITH MEALS, DRESSING, MOVEMENT, BATHING, OR OTHER PERSONAL NEEDS, OR GENERAL SUPERVISION AND OVERSIGHT OF THE PHYSICAL AND MENTAL WELL-BEING OF AN INDIVIDUAL, EXCLUSIVE OF NURSING, WHO BECAUSE OF AGE, PHYSICAL OR MENTAL DISABILITY, EMOTIONAL OR BEHAVIOR DISORDER, OR MENTAL RETARDATION IS INCAPABLE OF MAINTAINING A PRIVATE, INDEPENDENT RESIDENCE, OR WHO IS INCAPABLE OF MANAGING HIS PERSON WHETHER OR NOT A GUARDIAN HAS BEEN APPOINTED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-120)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~4002~~ 4121 et seq.).

Physical Therapy Assistant - a person who has graduated from a two ~~(2)~~ year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered with the Department of Professional Regulation ~~Registration and Education~~ as a physical therapist under the Illinois Physical Therapy License Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 par. ~~4201~~ 4251 et seq.)

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Physician - any person licensed by the State of Illinois to practice medicine in all its branches as provided in the "Medical Practice Act of 1987" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~4401~~ 4400-1 et seq.)

Probationary License - an initial license issued for a period of ~~one hundred twenty (120)~~ days during which time the Department will determine the qualifications of the applicant.

Program Coordinator - a qualified person directly responsible for the overall program, operation and management of a Community Living Facility.

Program Unit - a resident care unit in Specialized Living Facilities equivalent to a nursing unit in Skilled Nursing Facilities as defined in this Part.

Psychiatrist - a physician who has had at least three ~~(3)~~ years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is registered with the Illinois Department of Professional Regulation ~~Registration and Education~~ to practice clinical psychology.

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications ~~15~~:

Be a physician licensed by the Department of Professional Regulation to practice medicine or osteopathy.

Be a registered nurse licensed by the Department of Professional Regulation.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

~~an educator with a degree in education from an accredited~~



## Section 300.330 (continued)

- ~~program and with specialized training or one (1) year of experience in working with the mentally retarded.~~
- ~~a physical or occupational therapist who has specialized training or one (1) year of experience in treating the mentally retarded.~~
- ~~a physician licensed by the State of Illinois to practice medicine or osteopathy and with specialized training or one (1) year of experience in treating the mentally retarded.~~
- ~~a psychologist with at least a Master's Degree from an accredited program and with specialized training or one (1) year of experience in treating the mentally retarded.~~
- ~~a registered nurse with a valid current Illinois registration to practice as a registered professional nurse who has specialized training or one (1) year of experience in treating the mentally retarded.~~
- ~~a speech pathologist or audiologist who has specialized training or one (1) year of experience in treating the mentally retarded.~~
- ~~a registered social worker with a Bachelor's Degree in social work from an accredited program or a Bachelor's Degree in a field other than social work and at least three (3) years' social work experience under the supervision of a qualified social worker, and with specialized training or with one (1) year of experience in working with the mentally retarded.~~
- ~~a therapeutic recreation specialist who is a graduate of an accredited program and eligible for certification by the National Council for Therapeutic Recreation Certification, and who has specialized training or one (1) year experience working with the mentally retarded.~~
- ~~a rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification and who has specialized training or one (1) year of experience in treating the mentally retarded.~~

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization

## Section 300.330 (continued)

established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified, etc., by the State of Illinois, if required.

REASONABLE VISITING HOURS - ANY TIME BETWEEN THE HOURS OF 10 A.M. AND 8 P.M. DAILY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-121)

Registered Nurse - a person with a valid Illinois registration to practice as a registered professional nurse.

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two (2) or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

RESIDENT - PERSON RESIDING IN AND RECEIVING PERSONAL CARE FROM A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-122)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

RESIDENT'S REPRESENTATIVE - A PERSON OTHER THAN THE OWNER, OR AN AGENT OR EMPLOYEE OF A FACILITY NOT RELATED TO THE RESIDENT, DESIGNATED IN WRITING BY A RESIDENT TO BE HIS REPRESENTATIVE, OR THE RESIDENT'S GUARDIAN, OR THE PARENT OF A MINOR RESIDENT FOR WHOM NO GUARDIAN HAS BEEN APPOINTED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-123)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Restraint of a Resident - the application of a device to limit movements.

Room - a part of the inside of a facility that is partitioned

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## Section 300.330 (continued)

continuously from floor to ceiling with openings closed with glass or hinged doors.

Safety Device - any equipment or protective device used on a bed, chair, or resident which prevents him from falling or otherwise injuring himself. Examples are: bedside rails, geriatric ~~and/or~~ or adaptive chairs, a wide band ~~(minimum width six (6) inches)~~, vest or sheet applied to prevent falling out of a bed or chair, and hand socks applied to prevent injuring one's self.

Sanitation - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident in a room which the resident ~~he~~ cannot open.

Self Preservation - the ability to follow directions ~~and/or~~ or recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

SHELTERED CARE - MAINTENANCE AND PERSONAL CARE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-124)

Social Worker, Qualified - a person who:

is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act (Ill. Rev. Stat. 1987, ch. 111, par. 6351 et seq.) ~~by the State of Illinois (registered or certified by the Illinois Department of Registration and Education); and~~

is a graduate of a school of social work which has been approved by the Council on Social Work Education (some schools are approved for Bachelor's Degree programs and others for Master's Degree programs); and

has one ~~(1)~~ year of social work experience in a health care setting.

~~Specified Living Facility - a facility which provide behaviorally-oriented, psychosocial training to persons who have demonstrated an inability to adjust to settings with open, unmonitored community access. These services strive to effect an improved physical and~~

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~~mental condition, growth in social adaptation and integration, and an increased ability to cope with the problems of daily living. Individual capacity for self care and personal responsibility will be maximally encouraged and independence in room care, food preparation, and laundry will be fostered.~~

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

STOCKHOLDER OF A CORPORATION - ANY PERSON WHO, DIRECTLY OR INDIRECTLY, BENEFICIALLY OWNS, HOLDS OR HAS THE POWER TO VOTE, AT LEAST ~~5%~~ FIVE PERCENT OF ANY CLASS OF SECURITIES ISSUED BY THE CORPORATION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-125)

Story - when used in these regulations means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

STUDENT INTERN - MEANS ANY PERSON WHOSE TOTAL TERM OF EMPLOYMENT IN ANY FACILITY DURING ANY 12-MONTH PERIOD IS EQUAL TO OR LESS THAN 90 CONTINUOUS DAYS, AND WHOSE TERM OF EMPLOYMENT IS EITHER:

AN ACADEMIC CREDIT REQUIREMENT IN A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION, OR

IMMEDIATELY SUCCEEDS A FULL QUARTER, SEMESTER OR TRIMESTER OF ACADEMIC ENROLLMENT IN EITHER A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION, PROVIDED THAT SUCH PERSON IS REGISTERED FOR ANOTHER FULL QUARTER, SEMESTER OR TRIMESTER OF ACADEMIC ENROLLMENT IN EITHER A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION WHICH QUARTER, SEMESTER OR TRIMESTER WILL COMMENCE IMMEDIATELY FOLLOWING THE TERM OF EMPLOYMENT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-125.1)

Substantial - meeting requirements except for variance from the strict and literal performance which result in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 300.280(q)(8), 300.280(k)(2) and 300.280(k)(4).



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## Section 300.330 (continued)

Substantial failure - the failure to meet requirements other than a variance from the strict and literal performance which result in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 300.180(b)(1) and 300.260(f).

Sufficient - Same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in regulations, the supervisor must be on the premises if the person does not meet assistant level (two - 42) - year training program qualifications specified in these definitions.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

TITLE XVIII - TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT AS NOW OR HEREFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-126)

TITLE XIX - TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT AS NOW OR HEREFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-127)

TRANSFER - A CHANGE IN STATUS OF A RESIDENT'S LIVING ARRANGEMENTS FROM ONE FACILITY TO ANOTHER FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-128)

TYPE A VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY PRESENTING A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS MENTAL OR PHYSICAL HARM TO A RESIDENT WILL RESULT THEREFROM. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-129)

TYPE B VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED

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THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY DIRECTLY THREATENING TO THE HEALTH, SAFETY OR WELFARE OF A RESIDENT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-130)

~~Type C Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility which indirectly threatens the health, safety or welfare of a resident.~~

Unit - an entire physically identifiable residence area, in Community Living Facilities consisting of not less than five ~~(5)~~ nor more than ~~twenty (20)~~ beds, and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective regulations governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

~~Utensil Sanitizer - an apparatus for sanitizing unwrapped bulky-type utensils by using boiling water and steam heat not under pressure.~~

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.340 Incorporated and Referenced Materials

a) The following regulations, standards, and statutes are incorporated or referenced in this Part:

1) Private and professional association standards:

A) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1980), which may be obtained from the American Dietetic Association, 430 North Michigan Avenue, Chicago, Illinois 60611.

B) American National Standards Institute, Standard A17.1-84:

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## Section 300.340(a)(1)(B) (continued)

Safety Code for Elevators and Escalators (1985), which may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 325 East 47th Street, New York, New York 10017.

- C) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (1977), which may be obtained from the National Association of American Society of Heating, Refrigerating, and Air Conditioning, United Engineering Center, 345 East 47th Street, New York, New York 10017.
- D) The following standards of the American Society for Testing and Materials (ASTM):
  - i) Standard No. E-84-1977A: Method of Test for Surface Burning Characteristics of Building Materials.
  - ii) Standard No. E90-1975: Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions.
- E) International Conference of Building Officials, Uniform Building Code (1976 and 1982).
- F) National Fire Protection Association (NFPA) Standard No. 101: Life Safety Code, Appendix B (1981) and the following additional standards, which may be obtained from National Fire Protection Association, Battery Park, Quincy, Massachusetts 02269:
  - i) No. 10 (1978): Standards for Portable Extinguishers
  - ii) No. 13 (1980): Standards for the Installation of Sprinkler Systems
  - iii) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems
  - iv) No. 70 (1981): National Electric Code
  - v) No. 90A (1978): Installation of Air Conditioning and Ventilating Systems

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## Section 300.340(a)(1)(F) (continued)

- vi) No. 96 (1980): Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment
- vii) No. 220 (1979): Standards Types of Building Construction
- viii) No. 253 (1978): Flooring Radiant Heat Energy Test
- ix) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials
- G) Compressed Gas Association, Pamphlet P-2.1: Standard for Medical-Surgical Vacuum Systems in Hospitals (1976).
- H) Underwriters' Laboratory, Inc., Fire Resistance Index, Building Material Directory, and Standard No. 181 (1974): Factory Made Air Duct Materials and Air Duct Connectors.
- I) American Medical Record Association, Requirements for Medical Record Practitioners (1985), which may be obtained from the American Medical Record Association, John Hancock Center, Suite 1850, 875 North Michigan, Chicago, Illinois 60611.
- J) Commission on Rehabilitation Counselor Certification, Requirements for Rehabilitation Counselor Certification (1986), which may be obtained from the Commission on Rehabilitation Counselor Certification, 1156 Shore Drive, Room 350, Arlington Heights, Illinois 60004.
- K) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302.
- 2) Federal statutes and regulations:
  - A) Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)
  - B) Social Security Act (42 U.S.C. 301 et seq.)
  - C) U.S. Public Health Service, Guidelines for the Prevention and Control of Nosocomial Infections, which includes the



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## Section 300.340(a)(2)(C) (continued)

following guidelines and may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333.

- i) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (February 1981).
- ii) Guideline for Hospital Environmental Control (February 1981, Revised July 1982).
- iii) Guideline for Prevention of Intravascular Infections (October 1981).
- iv) Guideline for Prevention of Surgical Wound Infections (March 1982).
- v) Guideline for Prevention of Nosocomial Pneumonia (July 1982).
- vi) Guideline for Isolation Precautions in Hospitals (July 1983).
- vii) Guideline for Infection Control in Hospital Personnel (July 1983).

- ~~C) U.S. Public Health Service, Food Service Sanitation Manual (1985).~~
- ~~D) U.S. Public Health Service, Isolation Techniques for Use in Hospitals (1985).~~

## 3) State of Illinois Statutes:

- A) Alcoholism Treatment Licensing Act (Ill. Rev. Stat. 1987-1985, ch. 111 1/2, par. 2301 et seq.)
- B) Boiler and Pressure Vessel Safety Act (Ill. Rev. Stat. 1987-1985, ch. 111 1/2, par. 3201 et seq.)
- C) Child Care Act of 1969 (Ill. Rev. Stat. 1987-1985, ch. 23, par. 2211 et seq.)
- D) AN ACT to create the Court of Claims, to prescribe its powers and duties, and to repeal an Act herein named (Ill. Rev. Stat. 1987-1985, ch. 37, par. 439.1 et seq.)

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## Section 300.340(a)(3) (continued)

- E) The Illinois Dental Practice Act (Ill. Rev. Stat. 1987-1985, ch. 111, par. 2301 et seq.)
- F) The Election Code (Ill. Rev. Stat. 1987-1985, ch. 46, par. 1-1 et seq.)
- G) Freedom of Information Act (Ill. Rev. Stat. 1987-1985, ch. 116, par. 201 et seq.)
- H) General Not for Profit Corporation Act (Ill. Rev. Stat. 1987-1985, ch. 32, par. 163a et seq.)
- I) Hospital Licensing Act (Ill. Rev. Stat. 1987-1985, ch. 111 1/2, par. 142 et seq.)
- J) Illinois Controlled Substances Act (Ill. Rev. Stat. 1987-1985, ch. 56 1/2, par. 1100 et seq.)
- K) Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1987-1985, ch. 111 1/2, par. 1151 et seq.)
- L) Illinois Municipal Code (Ill. Rev. Stat. 1987-1985, Article I, Division 3, ch. 24, pars. 1-3-1 through 1-3-6)
- M) The Illinois Nursing Act (Ill. Rev. Stat. 1987-1985, ch. 111, par. 3401 et seq.)
- N) Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. 1987-1985, ch. 111, par. 3701 et seq.)
- O) Illinois Physical Therapy Act of 1985 (Ill. Rev. Stat. 1987-1985, ch. 111, par. 4251 et seq.)
- P) Life Care Facilities Act (Ill. Rev. Stat. 1987-1985, ch. 111 1/2, par. 4160-1 et seq.)
- Q) Local Governmental and Governmental Employees Tort Immunity Act (Ill. Rev. Stat. 1987-1985, ch. 85, par. 1-101 et seq.)
- R) Medical Practice Act (Ill. Rev. Stat. 1987-1985, ch. 111, par. 4401 et seq.)
- S) Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. 1987-1985, ch. 91 1/2, par. 1-100 et seq.)

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## Section 300.340(a)(3) (continued)

- T) Nursing Home Administrators Licensing and Disciplinary Act (Ill. Rev. Stat. 1987-1985, ch. 111, par. 3601 et seq.)
- U) Nursing Home Care ~~Referral~~ Act ~~of 1979~~ (Ill. Rev. Stat. 1987-1985, ch. 111 1/2, par. 4151-101 et seq.)
- V) Pharmacy Practice Act (Ill. Rev. Stat. 1987-1985, ch. 111, par. 4001 et seq.)
- W) Private Sewage Disposal Licensing Act (Ill. Rev. Stat. 1987-1985, ch. 111 1/2, par. 116.301 et seq.)
- X) Probate Act of 1975 (Ill. Rev. Stat. 1987-1985, ch. 110 1/2, par. 1-1 et seq.)
- Y) The Illinois Public Aid Code (Ill. Rev. Stat. 1987-1985, ch. 23, par. 1-1 et seq.)
- Z) Safety Glazing Materials Act (Ill. Rev. Stat. 1987-1985, ch. 111 1/2, par. 3101 et seq.)
- 4) State of Illinois rules:
- A) Office of the State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)
- B) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety ~~Rules and Regulations~~ (41 Ill. Adm. Code 120)
- C) Capital Development Board, Illinois Accessibility Code ~~Standards Illustrated~~ (71 Ill. Adm. Code 400)
- ~~D) Department of Public Health, Alcoholism and Intoxication-Treatment Programs (77 Ill. Adm. Code 200)~~
- ~~D) E)~~ Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
- E) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)
- F) Department of Public Health, Food Service Sanitation (77 Ill. Adm. Code 750)

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## Section 300.340(a)(4) (continued)

- G) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890)
- H) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905)
- I) Department of Public Health, Drinking Water Systems (77 Ill. Adm. Code 900)
- J) Department of Public Health, Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
- K) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)
- ~~L) Department of Public Aid, Access to Cost Reports (89 Ill. Adm. Code 140-544)~~
- ~~L) M)~~ Department of Professional Regulation ~~Registration and Education~~, Controlled Substance Act (77 Ill. Adm. Code 1650)
- M) Department of Public Aid, Access to Cost Reports (89 Ill. Adm. Code 140-544)
- N) Department of Transportation, Regulation of Construction within Flood Plains (92 Ill. Adm. Code 706)
- b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- c) All citations to federal regulations in this Part concern the specified regulation in the 1986 Code of Federal Regulations, unless another date is specified.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)
- SUBPART B: ADMINISTRATION
- Section 300.510 Administrator
- a) There shall be an administrator licensed under the "Illinois Nursing



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## Section 300.510(a) (continued)

Home Administrators Licensing and Disciplinary Act" (Ill. Rev. Stat. 1987, ~~1983~~ ch. 111, par. 3601 et seq.) full-time for each licensed facility. The licensee will report any change in administrator to the Department, within five ~~(5)~~ days. ~~(C)~~

- b) The administrator shall delegate in writing adequate authority to a person at least ~~eighteen~~ ~~(18)~~ years of age who is capable of acting in an emergency during his or her absence. Such administrative assignment shall not interfere with resident care and supervision. The administrator or the person designated by ~~him/her~~ the administrator to be in charge of the facility in ~~his/her~~ the administrator's absence, shall be deemed by the Department to be the agent of the license for the purpose of Section 3-212 of the ~~Nursing Home Care Reform~~ Act of ~~1979~~, which requires Department staff to provide the licensee with a copy of their report before leaving the facility. (B, ~~C~~)

- c) The administrator shall arrange for facility supervisory personnel to annually attend appropriate educational programs on supervision, nutrition, and other pertinent subjects. ~~(C)~~

- d) The administrator shall appoint in writing a member of the facility staff to coordinate the establishment of, and render assistance to, the residents' advisory council. ~~(C)~~

- e) The licensee and the administrator shall be familiar with this Part. They shall be responsible for seeing that the applicable regulations are met in the facility and that employees are familiar with those regulations according to the level of their responsibilities. (A, B, ~~C~~)

- f) If the facility has an assistant administrator, the Department shall be informed of the name and dates of employment and termination of this person. This will provide documentation of service to qualify for a license under the "Illinois Nursing Home Administrators Licensing and Disciplinary Act" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~3601~~ 3651 et seq.). ~~(C)~~

(Source: Amended at 13 Ill. Reg.           , effective           )

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## SUBPART C: POLICIES

## Section 300.610 Resident Care Policies

- a) The facility shall have written policies and procedures, governing all services provided by the facility which shall be formulated by a Resident Care Policy Committee consisting of at least the administrator, the advisory physician or the medical advisory committee and representatives of nursing and other services in the facility. These policies shall be in compliance with the Act and all rules promulgated thereunder. These written policies shall be followed in operating the facility and shall be reviewed at least annually by this committee, as evidenced by written, signed and dated minutes of such a meeting. (B, ~~C~~)

- b) All the information contained in the policies shall be available to the public, staff, residents and for review by Department personnel. ~~(C)~~

- c) These written policies shall include, at a minimum the following provisions: ~~(C)~~

- 1) Admission, transfer, and discharge of residents including categories of residents accepted and not accepted, residents that will be transferred or discharged, transfers within the facility from one room to another, and other types of transfers. ~~1, etc. (C)~~

- 2) Resident care services including physician services, emergency services, personal care and nursing services, restorative services, activity services, pharmaceutical services, dietary services, social services, clinical records, dental services, and diagnostic service (including laboratory and x-ray). (B, ~~C~~)

- ~~3) There shall be a policy prohibiting post-mortems in the facility. (C)~~

- ~~4) 3) There shall also be a policy prohibiting blood transfusions, unless the facility is hospital connected and appropriate services are available in case of an adverse reaction to the transfusions. (B, ~~C~~)~~

- d) The facility shall have a written agreement with one or more hospitals which indicates the hospital or hospitals will provide the following services. This requirement shall be waived when the facility can document to the satisfaction of the Department that by

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## Section 300.610(d) (continued)

reason of remote location or refusal of local hospitals to enter an agreement, it is unable to effect such arrangements. ~~(C)~~

- 1) Emergency admissions. ~~(C)~~
  - 2) Admission to a hospital of residents from the facility who are in need of hospital care. ~~(C)~~
  - 3) Needed diagnostic services. ~~(C)~~
  - 4) Any other hospital based services needed by the resident. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.620 Admission and Discharge Policies

- a) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or through arrangement with a qualified outside resource, shall be admitted to, or kept in that facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 - 3-423 of the Act. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided. ~~(B, C)~~
- b) Each facility shall have a policy concerning the admission of persons needing prenatal ~~and/or~~ or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to, or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house ~~and/or~~ or outside resources. ~~(C)~~
- c) No resident shall be admitted to, or kept in, the facility:
  - 1) Who is mentally ill, in need of mental treatment, and at risk because, due to the mental illness, the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future, ~~requires mental treatment as defined in the "Mental Health and Developmental Disabilities Code" (Ill. Rev. Stat. 1979, ch. 91-1/2, par. 1-100 et seq.),~~ provided that all involuntary discharges and transfers shall be in accordance with Sections

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## Section 300.620(c)(1) (continued)

3-401 - 3-423 of the Act. ~~(See definition of "person in need of Mental Treatment" in Section 300.330.)~~ ~~(B, C)~~

- 2) Who is destructive of property, himself, or others, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 - 3-423 of the Act. ~~(B, C)~~
  - 3) Who is developmentally disabled and who needs programming for such conditions, as described in the ICF/DD Standards. Such person shall only be admitted to or kept in facilities licensed as ICF/DD, or if under ~~eighteen~~ ~~(18)~~, in a long-term care facility for persons under ~~twenty-two~~ ~~(22)~~ years of age. Persons from ~~eighteen~~ ~~(18)~~ to ~~twenty-one~~ ~~(21)~~ in need of such care may be kept in either facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 - 3-423 of the Act. ~~(B, C)~~
  - d) Persons under ~~eighteen~~ ~~(18)~~ years of age may not be cared for in a facility for adults without prior written approval from the Department. ~~(C)~~
  - e) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident ~~himself~~ or, if incompetent, by the resident's guardian. ~~(C)~~
  - f) If a resident insists on and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's ~~his~~ clinical record. ~~(C)~~
  - g) No resident shall be admitted with a communicable, contagious or infectious disease except as set forth in Section 300.1020 (a)-(d). ~~(A, B, C)~~
  - h) A facility shall not admit more residents than the number authorized by the license issued to it. ~~(B, C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.630 Contract Between Resident and Facility

- a) 1) BEFORE A PERSON IS ADMITTED TO A FACILITY, OR AT THE EXPIRATION OF THE PERIOD OF PREVIOUS CONTRACT, OR WHEN THE SOURCE OF PAYMENT FOR THE RESIDENT'S CARE CHANGES FROM PRIVATE TO PUBLIC



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## Section 300.630(a)(1) (continued)

FUNDS OR FROM PUBLIC TO PRIVATE FUNDS, A WRITTEN CONTRACT SHALL BE EXECUTED BETWEEN A LICENSEE AND THE FOLLOWING IN ORDER OF PRIORITY:

- A) THE PERSON, OR IF THE PERSON IS A MINOR, HIS PARENT OR GUARDIAN; OR
- B) THE PERSON'S GUARDIAN, IF ANY, OR AGENT, IF ANY, AS DEFINED IN SECTION 11a-23 OF THE "PROBATE ACT OF 1975", AS NOW OR HEREFTER AMENDED; OR
- C) A MEMBER OF THE PERSON'S IMMEDIATE FAMILY.

- 2) AN ADULT PERSON SHALL BE PRESUMED TO HAVE THE CAPACITY TO CONTRACT FOR ADMISSION TO A LONG-TERM CARE FACILITY UNLESS HE HAS BEEN ADJUDICATED A "DISABLED PERSON" WITHIN THE MEANING OF SECTION 11a-2 OF THE "PROBATE ACT OF 1975", AS NOW OR HEREFTER AMENDED, OR UNLESS A PETITION FOR SUCH AN ADJUDICATION IS PENDING IN A CIRCUIT COURT OF ILLINOIS.
- 3) IF THERE IS NO GUARDIAN, AGENT OR MEMBER OF THE PERSON'S IMMEDIATE FAMILY AVAILABLE, ABLE OR WILLING TO EXECUTE THE CONTRACT REQUIRED BY SECTION 2-202 OF THE ACT AND A PHYSICIAN DETERMINES THAT A PERSON IS SO DISABLED AS TO BE UNABLE TO CONSENT TO PLACEMENT IN A FACILITY, OR IF A PERSON HAS ALREADY BEEN FOUND TO BE A "DISABLED PERSON", BUT NO ORDER HAS BEEN ENTERED ALLOWING RESIDENTIAL PLACEMENT OF THE PERSON, THAT PERSON MAY BE ADMITTED TO A FACILITY BEFORE THE EXECUTION OF A CONTRACT REQUIRED BY THAT SECTION; PROVIDED THAT A PETITION FOR GUARDIANSHIP OR FOR MODIFICATION OF GUARDIANSHIP IS FILED WITHIN 15 DAYS OF THE PERSON'S ADMISSION TO A FACILITY, AND PROVIDE FURTHER THAT SUCH A CONTRACT IS EXECUTED WITHIN ~~40~~ TEN DAYS OF THE DISPOSITION OF THE PETITION.
- 4) NO ADULT SHALL BE ADMITTED TO A FACILITY IF HE OBJECTS, ORALLY OR IN WRITING, TO SUCH ADMISSION, EXCEPT AS OTHERWISE PROVIDED IN CHAPTERS III AND IV OF THE "MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE", AS AMENDED, OR SECTION 11a-14.1 OF THE "PROBATE ACT OF 1975", AS AMENDED.
- 5) If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of the person, within ten ~~40~~ days of the effective date of these rules, unless a petition has been filed for guardianship or

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## Section 300.630(a)(5) (continued)

modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or a member of the person's immediate family available, able, or willing to execute the contract at that time, then a contract shall be executed within ten ~~40~~ days of the disposition of such petition.

- b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)." ~~(c)~~
- c) A RESIDENT SHALL NOT BE DISCHARGED OR TRANSFERRED AT THE EXPIRATION OF THE TERM OF A CONTRACT, EXCEPT AS PROVIDED IN SECTIONS 3-401 THROUGH 3-423 OF THE ACT. ~~(c)~~
- d) AT THE TIME OF THE RESIDENT'S ADMISSION TO THE FACILITY, A COPY OF THE CONTRACT SHALL BE GIVEN TO THE RESIDENT, HIS GUARDIAN, IF ANY, AND ANY OTHER PERSON WHO EXECUTED THE CONTRACT. ~~(c)~~
- e) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee. ~~(c)~~
- f) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section ~~above~~. If any person other than the principal signatory is to be held individually responsible for payments due under the contract that person shall also sign the contract on a separate signature line labelled "signature of responsible party" or "signature of guarantor." ~~(c)~~
- g) The contract shall include a definition of "responsible party" or "guarantor" which describes in full the liability incurred by any such person. ~~(c)~~
- h) A COPY OF THE CONTRACT FOR A RESIDENT WHO IS SUPPORTED BY NONPUBLIC FUNDS OTHER THAN THE RESIDENT'S OWN FUNDS SHALL BE MADE AVAILABLE TO THE PERSON PROVIDING THE FUNDS FOR THE RESIDENT'S SUPPORT. ~~(c)~~
- i) THE ORIGINAL OR A COPY OF THE CONTRACT SHALL BE MAINTAINED IN THE FACILITY AND BE MADE AVAILABLE UPON REQUEST TO REPRESENTATIVES OF THE DEPARTMENT AND THE DEPARTMENT OF PUBLIC AID. ~~(c)~~
- j) THE CONTRACT SHALL BE WRITTEN IN CLEAR AND UNAMBIGUOUS LANGUAGE AND SHALL BE PRINTED IN NOT LESS THAN 12 POINT TYPE. ~~(c)~~

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## Section 300.630 (continued)

- k) THE CONTRACT SHALL SPECIFY THE TERM OF THE CONTRACT. ~~(C)~~
- l) THE CONTRACT SHALL SPECIFY THE SERVICES TO BE PROVIDED UNDER THE CONTRACT AND THE CHARGES FOR THE SERVICES. A paragraph shall itemize the services and products to be provided by the facility and express the cost of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee. ~~(C)~~
- m) THE CONTRACT SHALL SPECIFY THE SERVICES THAT MAY BE PROVIDED TO SUPPLEMENT THE CONTRACT AND THE CHARGES FOR THE SERVICES.
- 1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established ~~above~~ in subsection (l) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed then such additional cost shall be specified in the contract. ~~(C)~~
- 2) If the cost of any itemized service or product to be provided by the facility or related institutions to the resident cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract. ~~(C)~~

n) THE CONTRACT SHALL SPECIFY THE SOURCES LIABLE FOR PAYMENT DUE UNDER THE CONTRACT. ~~(C)~~

o) THE CONTRACT SHALL SPECIFY THE AMOUNT OF DEPOSIT PAID. Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions the deposit shall be returned to the resident. If the deposit is nonrefundable the contract shall provide express notice of such nonrefundability. ~~(C)~~

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## Section 300.630 (continued)

- p) THE CONTRACT SHALL SPECIFY THE RIGHTS, DUTIES AND OBLIGATIONS OF THE RESIDENT, EXCEPT THAT THE SPECIFICATION OF A RESIDENT'S RIGHTS MAY BE FURNISHED ON A SEPARATE DOCUMENT WHICH COMPLIES WITH THE REQUIREMENTS OF SECTION 2-211 OF THE ACT. ~~(C)~~
- q) THE CONTRACT SHALL DESIGNATE THE NAME OF THE RESIDENT'S REPRESENTATIVE, IF ANY. THE RESIDENT SHALL PROVIDE THE FACILITY WITH A COPY OF THE WRITTEN AGREEMENT BETWEEN THE RESIDENT AND THE RESIDENT'S REPRESENTATIVE WHICH AUTHORIZES THE RESIDENT'S REPRESENTATIVE TO INSPECT AND COPY THE RESIDENT'S RECORDS AND AUTHORIZES THE RESIDENT'S REPRESENTATIVE TO EXECUTE THE CONTRACT ON BEHALF OF THE RESIDENT REQUIRED BY SECTION 2-202 OF THE ACT. ~~(C)~~
- r) THE CONTRACT SHALL PROVIDE THAT IF THE RESIDENT IS COMPELLED BY A CHANGE IN PHYSICAL OR MENTAL HEALTH TO LEAVE THE FACILITY, THE CONTRACT AND ALL OBLIGATIONS UNDER IT SHALL TERMINATE ON SEVEN ~~(7)~~ DAYS NOTICE. IT SHALL ALSO PROVIDE THAT IN ALL OTHER SITUATIONS, A RESIDENT MAY TERMINATE THE CONTRACT AND ALL OBLIGATIONS UNDER IT WITH ~~THIRTY (30)~~ DAYS NOTICE. ALL CHARGES SHALL BE PRORATED AS OF THE DATE ON WHICH THE CONTRACT TERMINATES, AND, IF ANY PAYMENTS HAVE BEEN MADE IN ADVANCE, THE EXCESS SHALL BE REFUNDED TO THE RESIDENT. THIS PROVISION SHALL NOT APPLY TO LIFE-CARE CONTRACTS THROUGH WHICH A FACILITY AGREES TO PROVIDE MAINTENANCE AND CARE FOR A RESIDENT THROUGHOUT THE REMAINDER OF HIS LIFE NOR TO CONTINUING-CARE CONTRACTS THROUGH WHICH A FACILITY AGREES TO SUPPLEMENT ALL AVAILABLE FORMS OF FINANCIAL SUPPORT IN PROVIDING MAINTENANCE AND CARE FOR A RESIDENT THROUGHOUT THE REMAINDER OF HIS LIFE. ~~(C)~~

s) After July 1, 1982, all facilities which offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the "Life Care Facilities Act," (Ill. Rev. Stat. 1987 ~~1983~~, ch. 111 1/2, par. 4160-1 et seq.) as now or hereafter amended, including the obtaining of a permit from the Department, before they may enter into such contracts. ~~(C)~~

t) IN ADDITION TO ALL OTHER CONTRACT SPECIFICATIONS CONTAINED IN THIS SECTION, ADMISSION CONTRACTS SIGNED OR RENEWED AFTER JULY 1, 1985, SHALL ALSO SPECIFY: ~~(C)~~

- 1) WHETHER THE FACILITY ACCEPTS MEDICAID CLIENTS;
- 2) WHETHER THE FACILITY REQUIRES A DEPOSIT OF THE RESIDENT OR HIS FAMILY PRIOR TO THE ESTABLISHMENT OF MEDICAID ELIGIBILITY;



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## Section 300.630(t) (continued)

- 3) IN THE EVENT THAT A DEPOSIT IS REQUIRED, A CLEAR AND CONCISE STATEMENT OF THE PROCEDURE TO BE FOLLOWED FOR THE RETURN OF SUCH DEPOSIT TO THE RESIDENT OR THE APPROPRIATE FAMILY MEMBER OR GUARDIAN OF THE PERSON;
- 4) THAT ALL DEPOSITS MADE TO A FACILITY BY A RESIDENT, OR ON BEHALF OF A RESIDENT, SHALL BE RETURNED BY THE FACILITY WITHIN 30 DAYS OF THE ESTABLISHMENT OF MEDICAID ELIGIBILITY, UNLESS SUCH DEPOSITS MUST BE DRAWN UPON OR ENCUMBERED IN ACCORDANCE WITH MEDICAID ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE ILLINOIS DEPARTMENT OF PUBLIC AID. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4152-202(j))
- u) IT SHALL BE A BUSINESS OFFENSE FOR A FACILITY TO KNOWINGLY AND INTENTIONALLY BOTH RETAIN A RESIDENT'S DEPOSIT AND ACCEPT MEDICAID PAYMENTS ON BEHALF OF THE RESIDENT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4152-202(k))
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.640 Residents' Advisory Council

- a) EACH FACILITY SHALL ESTABLISH A RESIDENT'S ADVISORY COUNCIL consisting of at least five ~~(5)~~ resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. THE ADMINISTRATOR SHALL DESIGNATE ANOTHER ~~A~~ MEMBER OF THE FACILITY STAFF (OTHER THAN ~~HIMSELF/HERSELF~~ THE ADMINISTRATOR) TO COORDINATE THE ESTABLISHMENT OF, AND RENDER ASSISTANCE TO, THE COUNCIL. ~~(6)~~
- b) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following: ~~(6)~~
- 1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives, etc. on the resident advisory council;
  - 2) the establishment of a separate community advisory group with persons of the residents' choosing;

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## Section 300.640(l) (continued)

PROCEDURES FOR IMPLEMENTING RESIDENT RIGHTS AND FACILITY RESPONSIBILITIES AND MAKE RECOMMENDATIONS FOR CHANGES OR ADDITIONS WHICH WILL STRENGTHEN THE FACILITY'S POLICIES AND PROCEDURES AS THEY EFFECT RESIDENTS' RIGHTS AND FACILITY RESPONSIBILITIES.

- m) THE COUNCIL SHALL BE A FORUM FOR:
- 1) OBTAINING AND DISSEMINATING INFORMATION;
  - 2) SOLICITING AND ADOPTING RECOMMENDATIONS FOR FACILITY PROGRAMING AND IMPROVEMENTS;
  - 3) EARLY IDENTIFICATION OF PROBLEMS;
  - 4) RECOMMENDING ORDERLY RESOLUTION OF PROBLEMS.
- n) THE COUNCIL MAY PRESENT COMPLAINTS ON BEHALF OF A RESIDENT TO THE DEPARTMENT, OR TO ANY OTHER PERSON IT CONSIDERS APPROPRIATE.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.650 Personnel Policies

- a) Each facility shall develop and maintain ~~There shall be~~ written personnel policies which are followed in the operation of the facility. ~~that shall include, at a minimum the following: These policies shall include at a minimum each of the requirements of this Section. (6)~~
- b) Employee Records
- 1) Employment application forms shall be completed on each employee and kept on file in the facility. They shall be available to Department personnel for review.
  - 2) Individual personnel files for each employee ~~These forms~~ shall contain date of employment, date of birth ~~age or birthdate~~, home address, educational background, past experience including types of employment, where previously employed, type of position employed to fill in this facility, last day employed (if no longer in present facility) and reasons for leaving. ~~(6)~~
  - 2) ~~Individual~~ ~~in addition to the application form, the~~

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Section 300.650(b)(3) (continued)

~~individual~~ personnel files for each employee shall also contain ~~other pertinent personnel data such as~~ health records, including the initial health evaluation required under Section 300.655(a), the results of the tuberculin skin test required under Section 300.655(b), and any other pertinent health records.

4) Individual personnel records for each employee shall also contain records of evaluation of performance. ~~(C)~~

~~3)~~

~~A) Each employee shall have a physical examination which has been conducted within a period of ten (10) days before or after employment and annually thereafter. This shall include findings that permit certification that the employee is free of communicable, contagious or infectious diseases. Additional physical examinations may be requested at the discretion of the Department according to the rules for "The Control of Communicable Diseases" (11. Adm. Code 690), Illinois Department of Public Health. This initial physical exam shall include documentation regarding past or present tuberculosis infection determined by either a tuberculosis skin test or chest x-ray taken within one (1) year prior to or ten (10) days after initial employment.~~

~~B) Repeat skin tests and/or chest x-rays are not required unless the employee is exposed to a person with tuberculosis in its contagious stage or has signs and symptoms of disease. However, they are highly recommended, especially for persons residing or working in high risk areas of the State.~~

~~C) It is also recommended that employees who have been infected with tuberculosis (positive skin reaction) and have not had a full course of chemoprophylaxis or chemotherapy should complete one (1) year of daily isoniazid (INH) unless contraindicated because of age or physical condition. Depending on their risk of developing disease, as determined by their physician, employees who have been infected and have not been able to complete a full course of preventive treatment should have a chest x-ray annually. (B, C)~~

~~4) An employee diagnosed or suspected of having a contagious or~~

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Section 300.650(b) (continued)

~~infectious disease shall not be on duty until such time as a written statement is obtained from a physician that the disease is no longer contagious or is found to be noninfectious. (B, C)~~

~~b) General~~

~~1)~~

~~c) All personnel shall have either training or experience, or both, in the job assigned to them. (B, C)~~

~~d) Orientation and In-Service Training~~

~~2) 1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident care, including fire and disaster, emergency care and basic safety; and, understanding and communicating with the type of residents being cared for in the facility, such as geriatric, pediatric, developmentally disabled, etc. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures for resident care services ~~concerning topics listed in Section 300.610(c)(2) before being assigned to provide direct care to residents. This orientation program shall include material regarding the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.~~~~

~~3) 2)~~

~~All employees, ~~each employee~~ except student interns, shall attend in-service training programs ~~covering each of the subjects listed in Section 300.610(c)(2) pertaining to his or her~~ their assigned duties at least annually. These in-service training programs shall include material regarding the facility's policies, skill training, and ongoing education carried out to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include material concerning prevention and treatment of decubitus ulcers (commonly known as bedsores). In-service training concerning dietary services shall include material concerning effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining~~



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## Section 300.650(d)(2) (continued)

therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept. (B, C)

e) ~~4)~~ Employees shall only be assigned duties which are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies. ~~No employee shall be assigned duties other than those directly related to his job functions, as identified in his job description, except in emergencies. (C)~~

f) ~~5)~~ Personnel policies shall include ~~there shall be~~ a plan to provide ~~a program of~~ personnel coverage for regular staff when they are absent. (A, B)

g) ~~6)~~ Every facility shall have a current dated weekly employee time schedule posted in a convenient place where employees may refer to it. This schedule shall contain the employee's name, job title, shift assignment, hours of work, and days off. The schedule ~~these~~ shall be kept on file in the facility for one ~~(1)~~ year after the week for which the schedule was used. ~~(C)~~

## h) Student Interns

1) No person who meets the definition of student intern shall be required to complete a current course of training for nursing assistants, or successfully complete the Department's proficiency examination.

2) The facility may utilize interns to perform basic nursing assistant practices, but shall not allow interns to provide rehabilitation nursing, in-bed bathing, assistance with skin care, foot care, enemas, or any medical procedure, except under the direct, immediate supervision of a licensed nurse or certified nursing assistant.

3) No facility shall have more than fifteen percent of its nursing assistant staff positions held by student interns.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.655 Initial Health Evaluation for Employees

a) Each employee shall have an initial health evaluation which shall be

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## Section 300.655(a) (continued)

used to insure that employees are not placed in positions which would pose undue risk of infection to themselves, other employees, residents, or visitors.

b) The initial health evaluation shall be conducted not more than 30 days prior to the employee beginning employment in the facility. The evaluation shall be completed not more than 30 days after the employee begins employment in the facility.

c) The initial health evaluation shall include a health inventory. This inventory shall be obtained from the employee and shall include the employee's immunization status and any available history of conditions which would predispose the employee to acquiring or transmitting infectious diseases. This inventory shall include any history of exposure to, or treatment for, tuberculosis. The inventory shall also include any history of hepatitis, dermatologic conditions, or chronic draining infections or open wounds.

d) The initial health evaluation shall include a physical examination. The examination shall include at a minimum any procedures needed in order to:

1) Detect any unusual susceptibility to infection and any conditions which would increase the likelihood of the transmission of disease to residents, other employees, or visitors.

2) Determine that the employee appears to be physically able to perform the job functions which the facility intends to assign to the employee.

e) The initial health evaluation shall include a tuberculin skin test which is conducted in accordance with the requirements of Section 300.1025. The test must meet one of the following timeframes:

1) The test must be completed no more than 90 days prior to the date of initial employment in the facility, or

2) The test must be commenced no more than ten days after the date of initial employment in the facility.

(Source: Added at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.660

## Nursing Assistants

~~Basic-Nursing Assistant Training Program~~

- a) Each of the facility's nursing assistants shall comply with one of the following conditions no later than 45 days after the date of initial employment.

1) Enroll in a Basic Nursing Assistant Training Program which has been approved by the Department under its rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). The program coursework shall be successfully completed by the nursing assistant no later than 120 days after the date of initial employment, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.

2) Register for the Department's nursing assistant proficiency examination which must be successfully completed no later than 120 days after the date of initial employment.

3) Provide documentation of equivalent nursing assistant training in accordance with Section 395.400 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). Such documentation shall be retained by the facility as part of the employee's personnel record.

- b) Each person employed by the facility as a nursing assistant shall meet each of the following requirements:

1) Be at least sixteen years of age, of temperate habits and good moral character, honest, reliable and trustworthy.

2) Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents.

3) Provide evidence of employment or occupation, if any, and residence for two years prior to initial employment as a nursing assistant.

4) Have completed at least eight years of grade school or provide proof of equivalent knowledge.

- c) The facility shall certify on a form provided by the Department that each nursing assistant employed by the facility meets the requirements of this Section. Such form shall be retained by the facility as part of the employee's personnel record.

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## Section 300.660 (continued)

- d) During inspections of the facility, the Department may require nursing assistants to demonstrate competency in the principles, techniques, and procedures covered by the basic nursing assistant training program curriculum described in Section 395.300 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall address all of the basic nursing assistant training principles, techniques, and procedures contained in Section 395.300 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395).

- ~~a) 1) Each facility shall ensure that all persons employed as nursing assistants comply with one of the following conditions within 45 days of initial employment: (B, C)~~

~~A) Enroll in a 120-hour Department of Public Health approved Basic Nursing Assistant Training Program. Such course shall be successfully completed within 120 days of initial employment.~~

~~B) Attend a recognized Nursing Assistant Training Program--registered with the Department of Public Health and successfully complete the Department's proficiency examination.~~

~~C) Successfully complete the Department's proficiency examination or~~

~~D) Prove exemption from training by prior work experience as outlined in Section 3-206 of the Act (continuously employed at same facility for one (1) year or employed at more than one (1) facility for two (2) years as a nursing assistant prior to March 1, 1980).~~

- ~~2) No person who meets the definition of student intern shall be required to complete a current course of training for nursing assistants, or successfully complete the Department's proficiency examination.~~

~~3) Interns may be utilized for the more basic nursing assistant practices, but will not be allowed to provide rehabilitation nursing, in bed bathing, assistance with skin care, foot care,~~



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## Section 300.660 (continued)

- ~~enemas or any medical procedure, except under the direct, immediate supervision of a licensed nurse or certified nursing assistant.~~
- ~~4) No facility will be allowed to have more than 15% of its nursing assistant work force composed of student interns.~~
- ~~b) Equivalency may be established by any one of the following:~~
  - ~~1) Documentation of successful completion of a training course approved by another state as evidenced by a diploma or certificate.~~
  - ~~2) Documentation of at least one year of continuous employment as a nursing assistant in one licensed hospital/Home Health Agency between March 1, 1975, and March 1, 1980, as evidenced by personnel records.~~
  - ~~3) Documentation of employment as a nursing assistant for two or more years in more than one licensed hospital/Home Health Agency between March 1, 1975, and March 1, 1980, as evidenced by personnel records.~~
  - ~~4) Documentation of successful completion of a nursing arts course in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school.~~
  - ~~5) Documentation of successful completion of a nursing assistant training course approved by the Illinois Board of Education between March 1, 1979, and March 1, 1980, as evidenced by a diploma or certificate. (A, B)~~
  - ~~6) Documentation of one year of employment as a nursing assistant in one facility with an interruption due to sick leave or education leave not exceeding six (6) weeks during the year ending March 1, 1980.~~
  - ~~7) Requests to establish equivalency should be submitted to the Office of Health Regulation with accompanying documentation.~~
  - ~~c) Criteria for A State Approved Basic Nursing Assistant Training Program are as follows:~~
    - ~~1) Application Procedures~~

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## Section 300.660 (continued)

- ~~The following information must be furnished to the Department at least sixty (60) days in advance of the training program--~~
- ~~programs submitted and approved under the Home Health Agency--~~
- ~~Licensing Act (Ill. Rev. Stat. 1983, ch. 111-1/2, par. 280, et seq.) shall be deemed to meet this part. Each facility providing its own training must apply for individual program approval. Retroactive approval will not be granted.~~
- ~~2) Program rationale, i.e., philosophy, purpose and brief summary that identifies sponsoring agency, and faculty qualifications.~~
- ~~3) Complete outline including program title, objectives, content, and methodology delineated by hour. The instructor has flexibility of teaching content in desired outline.~~
- ~~4) Location and scheduled dates of program (including future dates). If programs are canceled or rescheduled for any reason, the Department must be notified prior to delivery date for purposes of monitoring.~~
- ~~5) A copy of the evaluation tool must be included. The evaluation tool must evaluate the objectives, content, clinical performance and instructors.~~
- ~~6) Submitted materials will be reviewed by the Department and the program sponsor will be notified of the Department's action. If the program is not approved, the reason for this decision will be given to the program sponsor.~~
- ~~7) If a program is not approved, the program sponsor may, after making the appropriate modifications, reapply for approval.~~
- ~~8) Orientation to the specific policies of the employing agency shall be in addition to the one hundred twenty (120) hours of instruction.~~
- ~~9) Any change in content, objectives, or instructional staff must be submitted for review.~~
- ~~10) All approved training programs must be resubmitted on an annual basis for continued approval. In the resubmission process, please refer to the number assigned by the Department.~~
- ~~11)
 
  - ~~A) The course instructor shall be a registered nurse with a~~~~

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## Section 300.660 (continued)

~~current Illinois licensee who has no other duties while engaged in the training program, and who meets one of the following qualifications:~~

- ~~i) Valid Illinois teaching certificate or Community College approved instructor with at least one semester of teaching experience;~~
- ~~ii) Verification of attendance at the Department Train The Trainer Workshop (licensed Practical Nurses (LPN's) who attended prior to the effective date of the Act shall qualify);~~
- ~~iii) Evidence of at least one semester of formal teaching experience;~~
- ~~B) Instructors' vitae must be submitted.~~

~~12) The basic content must be presented in a minimum time frame of three (3) weeks, but not to exceed a maximum of one hundred twenty (120) days unless it is being done by a recognized educational institution on a term, semester or trimester basis. A ratio of two (2) hours of theory including supervised laboratory to one (1) hour of supervised clinical practice (direct nursing care) must be reflected in the one hundred twenty (120) hours minimum of training. Term, semester and trimester courses may be submitted by an educational institution. The program must include designated hours for clinical practice and evidence of agency agreements.~~

~~d) Course Requirements.~~  
~~The Basic Nursing Assistant Training Program shall include at a minimum:~~

~~1) Module I -- Orientation.~~

~~A) Functions of health care facilities. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

- ~~i) differentiate between the hospital, long term care facility, and home health aide programs as to their basic purposes and what each expects of the nursing assistant.~~

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## Section 300.660 (continued)

~~ii) define the functions of the nursing assistant and be aware of the ethical implications and the legal limitations;~~

~~iii) develop a beginning understanding and appreciation of the responsibility of the nursing assistant as a member of the health care team.~~

~~B) Home Health Agencies and the health care professions. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) discuss the purpose and organization of a home health agency;~~

~~ii) identify the members of the home health care team and their respective tasks;~~

~~iii) apply learned basic nursing procedures to the home setting making appropriate modifications.~~

~~C) Philosophy of patient care. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) understand the uniqueness and reward of caring for the geriatric patient;~~

~~ii) demonstrate an awareness of the ethics involved in the position;~~

~~iii) develop an understanding of the patient family relationship.~~

~~D) The role of the multidisciplinary health care team.~~

~~Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) define the role of the nursing assistant in the long term care facility;~~

~~ii) identify and discuss roles of the multidisciplinary team and the integration of services for the total care of the patient;~~

~~iii) identify the "chain of command" in the organizational~~



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## Section 300.660 (continued)

- ~~structure of a long term care facility.~~
- ~~E) Personal qualities of the nursing assistant. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~i) meet standards of appearance and general behavior.~~
  - ~~ii) be aware of the importance of punctuality and confidentiality.~~
  - ~~iii) demonstrate an awareness of the empathy and compassion, particularly to the elderly.~~
- ~~F) Duties of the nurse assistant. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~i) develop an understanding of nursing assistant duties.~~
  - ~~ii) develop an understanding of the why's of patient care.~~
  - ~~iii) define the functions of the nursing assistant and be aware of legal implications.~~
- ~~C) Medical terminology. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~i) develop an awareness of the very basic abbreviations and symbols utilized in medical terminology.~~
  - ~~ii) meet the written standards for charting on the medical record.~~
- ~~H) Recording. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~i) demonstrate an awareness of the principles of accurate observation and recording.~~
  - ~~ii) discuss the various forms utilized in the medical record system.~~
- ~~2) Module II Introduction to the patient.~~

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## Section 300.660 (continued)

- ~~A) Communication and interpersonal relationships with patients, families and others. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~i) develop an awareness of appropriate communication between staff/patients, staff/families, families/patient, staff/staff.~~
  - ~~ii) develop communication techniques.~~
  - ~~iii) demonstrate the ability to understand verbal and nonverbal communication.~~
- ~~B) Psychological needs of patient and family. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~i) develop an awareness of sensitivity to the patient's need for feelings of self worth.~~
  - ~~ii) demonstrate the ability to listen.~~
  - ~~iii) understand the necessity to develop and maintain harmony between patient and family.~~
- ~~C) Normal growth and development. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~i) list and describe Maslow's hierarchy of needs.~~
  - ~~ii) describe the continuum of life cycle.~~
  - ~~iii) develop an awareness of normalcy and deviations.~~
- ~~3) Module III Your working environment.~~
- ~~A) Cleanliness in the health care setting and patient homes. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~i) define the principles of medical asepsis.~~
  - ~~ii) demonstrate an awareness of the importance of~~

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## Section 300.660 (continued)

- ~~cleanliness in health care institutions.~~
- ~~iii) demonstrate the ability to modify medical asepsis technique for the home setting.~~
- ~~B) Principles of handwashing. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
  - ~~i) discuss the need for handwashing before and after each task and before and after direct patient contact.~~
  - ~~ii) demonstrate that an understanding of good handwashing technique will prevent the spread of disease.~~
  - ~~iii) demonstrate the ability to wash hands using the learned technique.~~
- ~~C) Principles of disinfection. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
  - ~~i) List the methods of disinfection.~~
  - ~~ii) demonstrate an awareness of handling disinfected articles.~~
  - ~~iii) differentiate between "clean" and "dirty."~~
- ~~D) Principles of sterilization. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
  - ~~i) explain the relationship between microorganism and infection control.~~
  - ~~ii) list the conditions necessary for microorganism growth.~~
  - ~~iii) develop an awareness of the process of killing all bacteria.~~
- ~~E) Techniques of disinfection. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
  - ~~i) discuss the various methods of disinfecting.~~
  - ~~ii) develop an awareness of relevant time necessary for~~

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## Section 300.660 (continued)

- ~~disinfection.~~
- ~~iii) list articles that can be safely disinfected.~~
- ~~F) Maintaining equipment and supplies. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
  - ~~i) develop an understanding of the proper use of equipment used in the personal/nursing care of residents.~~
  - ~~ii) demonstrate proper usage, cleaning and storing of equipment.~~
  - ~~iii) develop an awareness of the reporting system relevant to proper maintenance of equipment.~~
- ~~G) Module IV Safety.~~
  - ~~A) Body mechanics. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
    - ~~i) discuss techniques of proper body mechanics.~~
    - ~~ii) demonstrate good body mechanics for the benefit of the patient and nursing assistant.~~
    - ~~iii) relate use of body mechanics to basic musculo-skeletal anatomy.~~
  - ~~B) Fire safety. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
    - ~~i) identify potential fire hazards.~~
    - ~~ii) identify and apply rules for safety, fire and disaster.~~
    - ~~iii) state his/her role in facility's fire and disaster plan.~~
  - ~~C) Disaster. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~



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- ~~i) identify designated supervisory personnel in the event of disaster.~~
  - ~~ii) develop an understanding of the disaster manual.~~
  - ~~iii) state his/her role in facility's safety, fire and disaster plan.~~
- 5) Module V The patient's unit. Bedmaking procedures--  
~~unoccupied and occupied. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
- ~~A) identify the patient's need for a clean and comfortable environment.~~
  - ~~B) identify the purpose of and procedure for making the unoccupied and occupied bed.~~
  - ~~C) demonstrate proper bedmaking procedure.~~
- 6) Module VI Lifting, moving and transporting patients.
- ~~A) In bed. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
  - ~~i) describe briefly the musculo-skeletal system.~~
  - ~~ii) realize needs for motion in joints and muscle activity.~~
  - ~~iii) maintain correct body alignment.~~
- B) Ambulatory. Objectives: Upon completion of this unit of instruction, the student will be able to:
- ~~i) safely ambulate patients.~~
  - ~~ii) demonstrate proper body mechanics.~~
  - ~~iii) develop an awareness of the physical ability of each patient.~~
- C) Wheelchair. Objectives: Upon completion of this unit of instruction, the student will be able to:

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- ~~i) apply safety principles involved in transporting patient wheelchair.~~
  - ~~ii) demonstrate proper body mechanics.~~
  - ~~iii) provide for privacy when transferring the patient from bed to wheelchair.~~
- D) Stretcher. Objectives: Upon completion of this unit of instruction, the student will be able to:
- ~~i) identify and apply rules for safety for patient transfer.~~
  - ~~ii) demonstrate good body mechanics.~~
  - ~~iii) provide for privacy when transferring the patient from bed to stretcher.~~
- 7) Module VII Basic Anatomy.
- ~~A) i) Anatomy of the Skeletal System.~~
  - ~~ii) Anatomy of the Circulatory System.~~
  - ~~iii) Anatomy of the Digestive System.~~
  - ~~iv) Anatomy of the Respiratory System.~~
  - ~~v) Anatomy of the Urinary System.~~
  - ~~vi) Anatomy of the Muscular System.~~
  - ~~vii) Functioning of the human body as related to the disease process.~~
- B) Objectives: Upon completion of this unit of instruction the student will be able to:
- ~~i) develop an understanding of human anatomy and its relationship to normal function.~~
  - ~~ii) identify and discuss simple disease processes.~~

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## Section 300.660 (continued)

- ~~iii) explain how body systems work together.~~
- ~~8) Module VIII -- Personal care of the patient.~~
- ~~A) --~~
- ~~i) Oral hygiene.~~
- ~~ii) Bathing procedures.~~
- ~~iii) Care of the back, feet and skin.~~
- ~~iv) Observing and reporting.~~
- ~~8) Objectives: Upon completion of this unit of instruction, the student will be able to: --~~
- ~~i) identify basic human needs (physical, emotional, social and religious) of the patient.~~
- ~~ii) demonstrate the ability to recognize basic human needs in patient behavior.~~
- ~~iii) demonstrate proper medical asepsis technique.~~
- ~~iv) demonstrate methods to detect incipient or manifest decubitus ulcers.~~
- ~~v) demonstrate measures to prevent decubitus ulcers, such as proper positioning and turning.~~
- ~~vi) identify the patient's need for a clean environment.~~
- ~~vii) observe and report care given.~~
- ~~9) Nutrition.~~
- ~~A) Diets -- therapeutic diets. Objectives: Upon completion of this unit of instruction, the student will be able to: --~~
- ~~i) describe briefly the use of basic nutrients and fluids by the body.~~
- ~~ii) list the basic four groups and name daily requirements of each.~~

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## Section 300.660 (continued)

- ~~iii) identify modified diets and understand the reasons for modification.~~
- ~~8) Feeding techniques. Objectives: Upon completion of this unit of instruction, the student will be able to: --~~
- ~~i) describe briefly the anatomy of digestion.~~
- ~~ii) develop an awareness of the patient's eating limitations.~~
- ~~iii) serve and assist patient with feeding.~~
- ~~C) Nourishments. Objectives: Upon completion of this unit of instruction, the student will be able to: --~~
- ~~i) develop an understanding of intermittent nourishments and dietary supplements.~~
- ~~ii) demonstrate the ability to properly distribute nourishments.~~
- ~~iii) accurately report and record diet and fluid intake.~~
- ~~10) Module X -- Fluid balance.~~
- ~~A) Measuring fluid intake and output. Objectives: Upon completion of this unit of instruction, the student will be able to: --~~
- ~~i) describe briefly the anatomy of elimination.~~
- ~~ii) demonstrate the ability to measure intake and output.~~
- ~~iii) accurately report and record intake and output.~~
- ~~8) Forcing and restricting fluids. Objectives: Upon completion of this unit of instruction, the student will be able to: --~~
- ~~i) identify problems associated with bowel and bladder management.~~
- ~~ii) develop an understanding of fluid balance in the body.~~



~~iii) accurately report and record patient's fluid intake.~~

~~C) Specimen collection. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) describe briefly the anatomy related to body discharge and elimination.~~

~~ii) demonstrate how to collect stool, urine, and other specimens.~~

~~iii) accurately report and record urinary, fecal, and other output.~~

~~11) Module XI Observing and recording vital signs.~~

~~A)~~

~~i) Taking the temperature.~~

~~ii) Taking pulse.~~

~~iii) Taking respirations.~~

~~iv) Taking blood pressure.~~

~~v) Recording vital signs.~~

~~B) Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) state the meaning and importance of temperature, pulse, respirations, and blood pressure.~~

~~ii) demonstrate how to properly measure temperature, pulse, respirations, and blood pressure.~~

~~iii) accurately report and record temperature, pulse, respirations, and blood pressure.~~

~~12) Module XII Supportive care.~~

~~A) Heat applications. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) describe the various methods of heat application.~~

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~~ii) demonstrate the use of safety measures involved in applying hot applications.~~

~~iii) report and record treatment given.~~

~~B) Cold applications. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) describe the various methods of cold application.~~

~~ii) demonstrate the use and safety measures involved in applying cold applications.~~

~~iii) report and record treatment given.~~

~~C) Enemas. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) describe briefly the anatomy of elimination.~~

~~ii) demonstrate how to administer an enema.~~

~~iii) accurately report and record the procedures and results.~~

~~D) The vaginal douche external and internal. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) describe briefly the anatomy of the reproductive system.~~

~~ii) demonstrate the procedure of administering an external and internal douche.~~

~~iii) accurately report and record the procedure.~~

~~E) Catheters and tubing. Objectives: Upon completion of this unit of instruction, the student will be able to:~~

~~i) develop a basic understanding of the use of catheters and tubing.~~

~~ii) discuss the use of specific catheters and tubing.~~

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- ~~iii) develop an understanding of the maintenance and storage of catheters and tubing.~~
- ~~13) Module XII. Fundamentals of Rehabilitation Nursing.~~
  - ~~A) Philosophy of rehabilitation nursing. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
    - ~~i) discuss the intrinsic worth of affected persons.~~
    - ~~ii) develop a beginning understanding of the fundamentals of rehabilitation.~~
    - ~~iii) identify methods of treating the whole patient for restoration of function.~~
  - ~~B) Principles of rehabilitation nursing. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
    - ~~i) demonstrate an understanding of the concepts of rehabilitation nursing.~~
    - ~~ii) identify the four cardinal principles of rehabilitation nursing.~~
    - ~~iii) develop an awareness of the treatment process of rehabilitation as well as the legal implications.~~
- ~~C) Concepts of activities of daily living. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
  - ~~i) describe and discuss the use of adaptive tools for the disabled person.~~
  - ~~ii) develop an awareness of sensitivity to the patient's need for feelings of self esteem.~~
  - ~~iii) motivate the patient to work toward independence and self care.~~
- ~~14) Module XIV. Patient care planning.~~

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## Section 300.660 (continued)

- ~~A)~~
  - ~~i) Patient admission.~~
  - ~~ii) Patient transfer.~~
  - ~~iii) Patient discharge.~~
- ~~B) Objectives: Upon completion of this unit of instruction, the student will be able to:~~
  - ~~i) be aware of the emotional implications of admission, transfer, and discharge.~~
  - ~~ii) demonstrate the procedures for admission, transfer, and discharge.~~
  - ~~iii) observe, report, and record accurately.~~
- ~~15) Module XV. The patient in isolation.~~
  - ~~A) Isolation techniques. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
    - ~~i) discuss communicable diseases and the nature of isolation techniques.~~
    - ~~ii) differentiate between "clean" and "dirty."~~
    - ~~iii) discuss the difference between regular and reverse isolation procedures.~~
  - ~~B) Physiological aspects of isolation. Objectives: Upon completion of this unit of instruction, the student will be able to:~~
    - ~~i) demonstrate isolation precautions and procedures.~~
    - ~~ii) demonstrate isolation procedures including handwashing, masking, gowning, food and elimination precautions.~~
    - ~~iii) accurately report and record isolation procedures.~~
  - ~~C) Psychological aspects of isolation. Objectives: Upon completion of this unit of instruction, the student will~~



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- ~~be able to.~~
- ~~i) be aware and empathetic to the patient's fear and loneliness.~~
- ~~ii) identify untoward behavior of the isolated patient.~~
- ~~iii) accurately observe and record patient's emotional reaction to the isolation process.~~
- ~~D) Isolation in the home. Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
  - ~~i) apply learned isolation techniques making necessary modifications for home care.~~
  - ~~ii) communicate effectively with the patient and family relevant to the isolation process.~~
  - ~~iii) accurately observe, report, and record the isolation techniques.~~
- ~~16) Module XVI Care of the terminally ill patient.~~
  - ~~A) --~~
    - ~~i) Psychological needs of the patient.~~
    - ~~ii) Psychological needs of the family.~~
  - ~~B) Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
    - ~~i) identify and describe the rights of the dying patient and his/her family.~~
    - ~~ii) discuss attitudes and feelings about death and dying.~~
    - ~~iii) describe the physical and psychological changes in the patient as death approaches.~~
    - ~~iv) discuss the grieving process of the patient and family.~~
- ~~17) Module XVII Care of the body.~~

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## Section 300.660 (continued)

- ~~A) Postmortem care.~~
- ~~B) Objectives: Upon completion of this unit of instruction, the student will be able to:--~~
  - ~~i) develop an awareness for respect for the body after death occurs.~~
  - ~~ii) develop an understanding for good body alignment after death.~~
  - ~~iii) demonstrate nursing care after death.~~
- ~~C) Evaluation~~
  - ~~Upon successful completion of the Basic Nursing Assistant Training Program, the student must show competency of nursing skills by:--~~
    - ~~return demonstration as well as pass a written examination encompassing theory and skills taught.~~
- ~~F) Monitoring~~
  - ~~The Illinois Department of Public Health shall have the option of monitoring the training program. If a monitor finds the training to be inadequate relative to the materials submitted to the Department's Review Committee, program approval may be rescinded.~~
- ~~G) Certificates~~
  - ~~1) Proof of successful completion of the approved program necessitates the sponsoring organization to award certificates to the trainees. Certificates must be sent to the Department where they will be validated. A list of names, with Social Security numbers, course completion date, and program approval number, must accompany submitted certificates. The Department will return the certificates to the sponsor(s) for distribution.~~
  - ~~2) The following minimum information must be typed on the certificates before they are sent to the Department for validation:--~~
    - ~~A) Name of the trainee and Social Security number.~~
    - ~~B) Title: Basic Nursing Assistant Training Program.~~
    - ~~C) Identification number of the program.~~

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## Section 300.660 (continued)

- ~~3) Successful completion of the course does not imply "certification" of the nursing assistant by the State. It only indicates that the person has successfully completed the Basic Nursing Assistant Training Program and can be employed by a licensed long term care facility as a nursing assistant.~~
- ~~h) Application for approval of programs--~~
- ~~1) Requests for approval of programs and other related correspondence are to be submitted to--~~
- ~~Illinois Department of Public Health  
Office of Health Regulation  
525 West Jefferson Street  
Springfield, Illinois 62761~~
- ~~2) It will not be necessary for any course currently approved under criteria in effect at the time these revised criteria for Basic Nursing Assistant Training Programs become effective, to make any changes in program content until such time as a review by the Department indicates the revisions to the program content are needed to keep the program in compliance with the rules. Any program determined to need changes will be notified, in writing, by the Department. Unless and until such written notification is received, there is no need to contact the Department concerning continued approval of a program.~~

~~i) Recognized Training Program--~~

- ~~1) Any licensed long term care facility may teach a recognized training program for prospective nursing assistants which can be individualized for each employee and can be taught by any person or persons in the facility.~~
- ~~2) Any person who attends a recognized training program must successfully pass the Department's proficiency examination before being permitted to function as a certified nursing assistant.~~
- ~~3) Recognized training programs shall be registered with the Illinois Department of Public Health by letter, and must state that, as a minimum, the modules in subsection (d) of this Section will be taught wholly or in part, give the name of the instructor and give notice that the program is operational.~~

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## Section 300.660 (continued)

- ~~4) Recognized training programs must, as a minimum, provide all or part of the course content of an approved Department training program such as in subsection (d) of this Section.~~
- ~~j) Proficiency Examination for Nursing Assistants--~~
- ~~1) Any person employed as a nursing assistant may elect and request to take a proficiency examination in lieu of a course of training as required under Section 3-206(a)(5) of the Act.~~
- ~~2) The person must meet the requirements of Section 3-206(a) (1-4) of the Act and be or will be employed as a nursing assistant.~~
- ~~3) A completed proficiency examination application must be presented at the time of the examination on forms provided by the Department.~~
- ~~4) The proficiency examination will be offered monthly, or more often if the number of applicants requires it, in each of the Department's Regions at a location determined by each Regional Office. The Department will establish and announce the dates and times for the examinations.~~
- ~~5) The examination will consist of written questions from the approved curriculum as shown in subsection (d) of this Section. The examination consists of four (4) sections. An examinee must score 70% or more on each section in order to successfully pass the section. Notice of Pass or Fail will be sent to the examinee and the employer. Only those sections previously failed must be retaken during subsequent attempts to pass the entire proficiency examination.~~
- ~~6) An examinee who fails the proficiency examination three (3) times within the first forty five (45) days of employment must enroll in and complete an approved course of instruction in order to become a qualified nursing assistant in accordance with Section 3-206 of the Act.~~

(Source: Section repealed, new Section adopted at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.670 Disaster Preparedness

- a) Each facility shall have policies covering disaster preparedness



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including a written plan for staff and residents to follow in case of fire, explosion, severe weather or other hazardous circumstances or emergencies. The plan shall be rehearsed at least twice a year for each shift. The plan shall include, but is not limited to, the following: (B-~~6~~)

- 1) All personnel employed on the premises shall be properly instructed in the use of fire extinguishers. (B-~~6~~)
- 2) A written plan of evacuation posted, and made familiar to all personnel employed on the premises. ~~(C)~~
- b) Fire and disaster drills shall be held at least quarterly, for each shift of facility personnel and under varied conditions, in order to: ~~(C)~~
  - 1) Ensure that all personnel on all shifts are trained to perform assigned tasks;
  - 2) Ensure that all personnel on all shifts are familiar with the use of the fire fighting equipment in the facility;
  - 3) Evaluate the effectiveness of disaster plans and procedures;
  - 4) Fire and disaster drills shall include simulation of evacuation of residents to safe areas during at least one drill each year on each shift.
  - 5) There shall be special provisions for the evacuation of the physically handicapped, including deaf ~~and/or~~ or blind, such as fire chutes and mattress loops with poles.
  - 6) Where the welfare of the residents precludes an actual evacuation of an entire building, there must be drills involving the evacuation of successive portions of the building under such conditions as to assure the capability of evacuating the entire building with the personnel usually available, should the need arise.
  - 7) There shall be a written evaluation submitted to the facility administrator which shall be maintained for three years.
- c) A written plan shall be developed for temporarily relocating the residents for any emergency requiring relocation and any time the temperature in residents' bedrooms falls below ~~fifty-five~~ ~~(-55-)~~

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Section 300.670(c) (continued)

degrees Fahrenheit for ~~twelve~~ ~~(-12-)~~ hours or more. ~~(C)~~

- d)
  - 1) Upon the occurrence of any emergency or disaster requiring hospital service, police, fire department or coroner, the facility administrator or their designee must provide a preliminary report to the Department utilizing either the nursing home hotline or by contacting directly the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:
    - A) Name and location of facility;
    - B) type of emergency;
    - C) number of injuries or deaths to residents;
    - D) number of beds not usable due to the event;
    - E) estimate of the extent of damages to the facility;
    - F) type of assistance needed, if any;
    - G) other state or local agencies notified about the problem.
  - 2) If the emergency will not require direct Departmental assistance, the facility shall provide the preliminary report within 24 hours of the incident. Additionally, the Department shall receive a full written account within seven ~~(7)~~ days of the incident which includes the information specified in subsections (d)(1)(A) through (d)(1)(G) of this Section ~~above~~ and a statement of actions taken by the facility after the preliminary report. ~~(G)~~
- e) Each facility shall establish and implement policies and procedures in a written plan to provide for the health, safety, welfare and comfort of all residents whenever the temperature and relative humidity inside the residents living, dining, activities or sleeping areas of the facility are equal to or exceed the upper or lower limit lines (the solid lines) of the chart, "Zones of Physiological Perception," displayed in Table D: "Disaster Preparedness Parameters -- Relative Humidity and Temperature." (A, B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.680 Restraints and Safety Devices

- a) There shall be written policies which are followed in the operation of the facility, controlling the use of safety devices. These policies shall be developed by the medical advisory committee or the advisory physician with participation by nursing and administrative personnel. (B, ~~C~~)
- b) Safety devices, with the exception of side rails and geriatric chairs shall be used only upon written order of the attending physician and for the safety and security of the residents. In an emergency a telephone order is acceptable if taken as specified in Section 300.1620(a)(2). (B)
- c) The reasons for ordering and using safety devices shall be recorded in the clinical record. The recordings shall contain ongoing evaluations of the need for the safety devices and the measures being taken to reduce or eliminate the need for their use.
- d) A resident wearing a safety device shall have it released for a few minutes at least once every two ~~(2)~~ hours, or more often if necessary. Residents in geriatric chairs shall be assisted to ambulate every two ~~(2)~~ hours or more often if necessary and their physical condition permits. The resident's position shall be changed at these times, and good skin care or other nursing needs provided. (B)
- e) No safety device with locks shall be used. (B)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.690 Serious Incidents and Accidents

- a) The facility shall notify the Department of any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department. ~~(C)~~
- 1) Notification shall be made by a phone call to the Regional Office within ~~twenty-four~~ ~~(24)~~ hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number. ~~(C)~~

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## Section 300.690(a) (continued)

- 2) A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven ~~(7)~~ days of the occurrence. ~~(C)~~
- b) A descriptive summary of each incident or accident shall be recorded in the progress notes or nurse's notes for each resident involved. ~~(C)~~
- c) The facility shall maintain a file of all written reports of serious incidents or accidents involving residents. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: PERSONNEL

## Section 300.810 General

- a) Sufficient staff in numbers and qualifications shall be on duty all hours of each day to provide services that meet the total needs of the residents. As a minimum, there shall be at least one ~~(1)~~ staff member awake, dressed, and on duty at all times ~~each of the three (3) eight (8) hour shifts each day~~. (A, B, ~~C~~)

- b) The number and categories of personnel to be provided shall be based on the following:

- 1) Number of residents.
- 2) Amount and kind of personal care, nursing care, supervision, and program needed to meet the particular needs of the residents at all times.
- 3) Size, physical condition, and the layout of the building including proximity of service areas to the resident's rooms.
- 4) Medical orders.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.820 Categories of Personnel

- a) The facility shall provide an administrator as set forth in Subpart B. (B)



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## Section 300.820 (continued)

- b) The facility shall provide a Resident Services Director who is assigned responsibility for the coordination and monitoring of the resident's overall plan of care. The director of nurses or an individual on the professional staff of the facility may fill this assignment to assure that residents' plans of care are individualized, written in terms of short and long-range goals, understandable and utilized; their needs are met through appropriate staff interventions and community resources; and residents are involved, whenever possible, in the preparation of their plan of care. (B-1-G-)
- c) The facility shall provide activity personnel as set forth in Section 300.1410(b). (B-1-G-)
- d) The facility shall provide dietary personnel as set forth in Sections 300.2010 and 300.2020. (B-1-G-)
- e) The facility shall designate a staff member to provide social services to residents. (B-1-G-)
- f) The facility shall provide nursing personnel as set forth in Subpart F. (B-1-G-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.830 Consultation Services

- a) The facility shall have all arrangements for each consultant's services in a written agreement setting forth the services to be provided. These agreements shall be updated annually. (G-)
- b) If the staff member designated to provide social services is not a registered or certified social worker, the facility shall have an effective arrangement with a registered or certified social worker to provide social service consultation. (G-)

1) Skilled nursing facilities must provide a qualified social worker to meet this requirement.

2) A qualified social worker is one who meets the definition in Section 300.330. —

~~(A) is licensed by the State of Illinois (registered or certified by the Illinois Department of Registration and~~

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## Section 300.830(b)(2) (continued)

~~Education); and—~~

- ~~B) is a graduate of a school of social work which has been approved by the Council on Social Work Education (some schools are approved for Bachelor's Degree programs and others for Master's Degree programs); and—~~
- ~~C) has one (1) year of social work experience in a health care setting.—~~
- c) The facility shall have a written agreement for activity program consultation if required under Section 300.1410(c). ~~designate a staff member to be the director of the activities program. If this person is not a Registered Occupational Therapist, a Therapeutic Recreation Specialist, or a Certified Social Worker, the facility shall have a written agreement made with a person from one of those disciplines to provide consultation to the Activity Director, and— shall assure the programming meets the needs of the residents.—~~ (G) —

d) If the supervisor of health services is not a nurse currently registered to practice as a registered professional nurse in Illinois, arrangements shall be made for consultation from a person so qualified. She shall assist with the development of policies, methods, and procedures relating to the medical program, medication, in-service on these medications and in-service training and all aspects of personal and nursing care. She shall give this consultation in the facility not less than four ~~(4)~~— hours each week. (G) —

e) If a facility provides other specific restorative services (physical therapy, occupational therapy, etc.) they shall include consultation as set forth in Section 300.1420(a).

f) The facility shall make arrangements for an advisory physician or medical advisory committee as set forth in Section 300.1010 or 300.1010(a)(2). (B-1-G-)

g) The facility shall make arrangements for an advisory dentist and dental hygienist if desired, as set forth in Section 300.1050 and 300.1050(b).

h) The facility shall make arrangements for a consultant pharmacist as set forth in Section 300.1610 and 300.1610(e). (B)

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## Section 300.830 (continued)

## Section 300.1010(b) (continued)

i) ~~Additional for~~ Skilled Nursing Facilities ~~The facility~~ shall make arrangements for consultation from a Registered Medical Records Consultant as set forth in Section 300.1830.

j) ~~Additional for~~ Skilled Nursing Facilities ~~The facility~~ shall make arrangements for a dietary consultant as set forth in Section 300.2010(b).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.840 Personnel Policies

The personnel policies required in Section 300.650 and other personnel policies established by the facility, shall be followed in the operation of the facility.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

## Section 300.1010 Medical Care Policies

a)

1) There shall be an advisory physician, or a medical advisory committee composed of physicians, who shall be responsible for advising the administrator on the overall medical management of the residents and the staff of the facility. If the facility employs a house physician, he may be the advisory physician.  
(B-1, G-1)

2) Additional for Skilled Nursing Facilities. There shall be a medical advisory committee composed of two ~~(2)~~ or more physicians who shall be responsible for advising the administrator on the overall medical management of the residents and the staff in the facility. If the facility employs a house physician, he may be one member of this committee. ~~(G)~~

b) The facility shall have and follow a written program of medical services which sets forth the following: the philosophy of care and policies and procedures to implement it; the structure and function of the medical advisory committee, if the facility has one; the health services provided; arrangements for transfer when medically indicated; and procedures for securing the cooperation of residents'

personal physicians. The medical program shall be approved in writing by the advisory physician or the medical advisory committee.  
(B-1, G-1)

c) Every resident shall be under the care of a physician. Residents in facilities operated under bona fide Christian Science auspices may be exempt from this requirement. ~~(G)~~

d) All residents, or their guardians, shall be permitted their ~~Each resident, or his/her guardian shall be permitted his/her~~ choice of a physician. ~~(G)~~

e) All residents ~~Each resident~~ shall be seen by their ~~his/her~~ physician as often as necessary to assure adequate health care. (Medicare/Medicaid requires certification visits.) ~~(G)~~

f) Physician treatment plans, orders and similar documentation shall have an original written signature of the physician. A stamp signature, with or without initials, is not sufficient. ~~(G)~~

g) Each resident admitted shall have a ~~thorough~~ physical examination, within five ~~(5)~~ days prior to admission or within ~~seventy-two (72)~~ hours after admission. The examination report shall include at a minimum each of the following:

- 1) An ~~an~~ evaluation of the resident's condition, including height and weight, diagnoses, plan of treatment, recommendations, treatment orders, personal care needs, and permission for participation in activity programs as appropriate.
- 2) Documentation ~~The report shall include documentation~~ of the presence or absence of tuberculosis infection by tuberculin skin test in accordance with Section 300.1025 ~~or chest x-ray within one year prior to admission or at the time of examination.~~
- 3) Documentation ~~The report shall include documentation~~ of the presence or absence of incipient or manifest descriptus ulcers (commonly known as bed sores), with grade, size and location specified, and orders for treatment, if present. (A photograph of incipient or manifest decubitus ulcers is recommended on admission.)
- 3) Orders ~~The report shall include documentation~~ from the physician regarding weighing of the resident, and the frequency of such weighing, if ordered. ~~(G)~~



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Section 300.1020 (continued)

h) The facility shall notify the resident's physician of any accident, injury, or significant change in a resident's condition that threatens the health, safety or welfare of a resident, including, but not limited to, the presence of incipient or manifest decubitus ulcers or a weight loss or gain of five ~~(5)~~ percent or more within a period of ~~thirty~~ ~~(30)~~ days. The facility shall obtain and record the physician's plan of care for the care of treatment of such accident, injury or change in condition at the time of notification. (B-~~7-6~~)

i) At the time of an accident or injury, immediate treatment shall be provided by personnel trained in first aid procedures. (B-~~7-6~~)

(Source: Amended at 13 Ill. Reg. ~~---~~, effective ~~---~~)

Section 300.1020 Communicable Disease Policies

a) The administration shall assume the responsibility for meeting all the rules for the Control of Communicable Disease, Illinois Department of Public Health, so that there is a minimum danger of transmission of contagious, infectious, or communicable diseases. As part of this responsibility, the facility shall establish an Infection Control Committee, composed of members of the medical and nursing staffs, administration, and the dietetic, pharmacy, housekeeping, maintenance and other services. The committee shall establish policies and procedures for investigating, controlling, and preventing infections in the facility, and for monitoring staff performance to ensure that the policies and procedures are executed. (B)

b) No resident with a communicable, contagious, or infectious disease shall be admitted knowingly. An exception shall be a resident whose only such infectious condition is one or more chronic decubital ulcers, from which laboratory tests have proven the presence of a pathogenic organism. Such a resident may be admitted when the facility is capable of implementing appropriate treatment and isolation techniques, to avoid secondary spread of infection. Additional exceptions may be requested on an individual case basis. Permission to admit or keep a resident with any other communicable, contagious, or infectious disease shall require the written approval of the Department. Such approval will be dependent upon the nature of the infectious condition or disease and the capability of the facility to provide proper care to the resident and to adequately safeguard the staff and other residents of the facility from secondary spread of infection. Any resident when suspected or

Section 300.1020(b) (continued)

diagnosed as having any communicable, contagious, or infectious disease shall be placed in the appropriate type of isolation as required by the rules for "The Control of Communicable Disease," Illinois Department of Public Health, and "Isolation Techniques for Use in Hospitals", U.S. Public Health Service, for the period of time required for each specific disease or until removed from the facility. (B-~~7-6~~)

c) All illnesses required to be reported under subsection (a) of this Section ~~above~~ shall be reported immediately to the local health department and to this Department. The administrator shall furnish all pertinent information relating to such occurrences. In addition the Department shall also be informed of all Scabies and other skin infestations. (B-~~7-6~~)

d) Additional for Skilled Nursing Facilities

Procedures and aseptic isolation techniques shall be established in writing and followed by all personnel. (B-~~7-6~~)

(Source: Amended at 13 Ill. Reg. ~~---~~, effective ~~---~~)

Section 300.1025 Tuberculin Skin Test Procedures

Tuberculin skin tests for employees and residents shall be conducted in accordance with the requirements in this Section.

a) Where there is documentation for an employee or resident of previous significant skin test reaction and previous treatment for tuberculosis, no skin test is required. The facility shall retain such documentation of testing and treatment in the employee's personnel record or the resident's medical record.

b) The tuberculin skin test shall consist of five tuberculin units of purified protein derivative administered intradermally using the Mantoux method.

c) A significant reaction shall be considered to exist when either of the following conditions is present:

- 1) There is an area of induration ten mm or more in diameter.
- 2) There is an area of induration five mm or more in diameter and the attending physician or local health authority suspect tuberculosis on the basis of disease or exposure.

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## Section 300.1025 (continued)

- d) If the first test is nonsignificant, a second test shall be given at least one week, but no more than three weeks, after the first test.
- e) If the first or second test reaction is significant, or if active tuberculosis is suspected at any time, the attending physician or local health authority shall order any further examinations and treatment which is considered necessary, such as x-rays, cultures, or sputum smears.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1030 Medical Emergencies

- a) The advisory physician or medical advisory committee shall develop policies and procedures to be followed during the various medical emergencies that may occur from time to time in long-term care facilities. These medical emergencies include, but are not limited to such things as: foreign body aspiration, poisoning, acute trauma (fractures, burns, lacerations, etc.), cardiac arrest, acute coronary, acute cardiac failure, asthmatic ~~and/or~~ or allergic reactions, acute convulsion, shock, diabetic coma, insulin shock, and acute respiratory distress. (A, B)
- b) The facility shall maintain in a suitable location the equipment to be used during these emergencies. This equipment shall include at a minimum the following: a portable oxygen kit, including a face mask ~~and/or~~ or cannula; an air way; and tongue blades. (B)
- c) There shall be at least one staff person on duty at all times who has been properly trained to handle the medical emergencies in subsection (a) of this Section. (B)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1040 Behavior Emergencies

- a) If a resident becomes disturbed or unmanageable, he shall be examined by his physician. This medical examination shall be made promptly. (B, ~~C~~)
- b) No form of seclusion shall be permitted. ~~(C)~~
- c) Restraints shall be used only in an emergency and only upon a

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## Section 300.1040(c) (continued)

- physician's order until the resident is examined by the doctor. This examination shall be carried out promptly. Restraints may be applied only by personnel trained in proper application and observation of this equipment. (See Section 2-106 of the Act.) (B)
- d) The reason for ordering and using restraints shall be recorded in the clinical record. There shall be written policies, which are followed in the operation of the facility, covering the use of restraints. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1050 Dental Standards

- a) Each long-term care facility shall have a dental program which will provide for in-service education to residents and staff under direction of dental personnel including at a minimum the following: (B, ~~C~~)
- 1) Information regarding nutrition and diet control measures which are dental health oriented.
  - 2) Instruction in proper oral hygiene methods.
  - 3) Instruction concerning the importance of maintenance of proper oral hygiene and where appropriate including family members (as in the case of residents leaving the long-term care facility).
- b) The direct care staff shall receive in-service education annually. This will be provided by a dentist or a dental hygienist. (B, ~~C~~)
- 1) Direct care staff shall be educated in ultrasonic ~~and/or~~ or manual denture and partial denture cleaning techniques.
  - 2) Direct care staff shall be educated in proper brushing and oral health care for residents who are unable to care for their own health.
  - 3) Direct care staff shall be educated in examining the mouth in order to recognize abnormal conditions for necessary referral.
  - 4) Direct care staff shall be educated regarding nutrition and diet control measures and the effect on dental health.



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## Section 300.1050(b) (continued)

- 5) Supplemental dental training films shall be included with any other health training films seen on a rotating basis.
- c) The long-term care facility's dental program shall provide for each resident having proper daily personal dental hygiene attention, with the nursing staff responsible for continuity of care which includes, but is not limited to, the following: (B-1-G)
  - 1) Assistance in cleaning mouth with electric or hand brush if resident is unable to do so.
  - 2) Weekly ultrasonic cleaning of dentures and ~~for~~ partials is strongly recommended.
- d) There shall be comprehensive treatment services for all residents which include, but are not limited to, the following: (B-1-G)
  - 1) Provision for dental treatment
  - 2) Provision for emergency treatment by a qualified dentist
- e) Each facility shall have a denture and dental prosthesis marking system which takes into account the identification marking system contained in Ill. Rev. Stat., ~~1983~~ 1987, ch. 111, par. ~~2202~~ 2349, ~~"Manufacture of dentures and dental prostheses"~~ ~~"Identification marks"~~ "Identification of Dentures." Policies and Procedures shall be written and contained in the facility's Policies and Procedure Manual. It shall include, at a minimum, provisions for: (B-1-G)
  - 1) Marking individual dentures or dental prostheses, if not marked prior to admission to the facility, within ten ~~(10)~~ days of admittance; and
  - 2) individually marked denture cups for denture storage at night.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: NURSING AND PERSONAL CARE

## Section 300.1210 General Requirements for Nursing and Personal Care

- a) ~~There shall be a sufficient number of nursing personnel on duty twenty-four (24) hours each day to provide~~ Adequate and properly

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## Section 300.1210(a) (continued)

- supervised ~~services~~ nursing care and personal care shall be provided to each resident to meet the total nursing and personal care needs of the resident ~~a~~. ~~Nursing personnel includes registered professional nurses, licensed practical nurses, nurse aides, and orderlies, and any other persons, whatsoever their title, who provide or supervise the provision of direct nursing and/or personal care to residents. This would include persons involved in the process of training residents in the activities of daily living.~~ (A, B)
- b) Restorative/rehabilitative nursing measures shall be practiced on a ~~twenty-four (24) hour day, seven (7) day week basis~~. Those procedures requiring medical approval shall be ordered by the attending physician. (A, B)
  - 1) The licensed nurse in charge of the restorative/rehabilitative nursing program shall have successfully completed a course or other training program which includes at least 60 hours of classroom/lab training in restorative/rehabilitative nursing as evidenced by a transcript, certificate, diploma, or other written documentation from an accredited school or recognized accrediting agency such as a State or National organization of nurses or a State licensing authority. Such training shall address each of the measures outlined in subsection (b)(2) of this Section. This person may be the DON, ADON or another nurse designated by the DON to be in charge of the restorative/rehabilitative nursing program. (B)
  - 2) ~~Restorative/rehabilitative measures shall include at a minimum the following procedures: (B, G)~~
    - 2) ~~A) Positioning and turning.~~ All nursing personnel shall encourage ~~and/or~~ and assist residents in maintaining good body alignment while standing, sitting or lying in bed. (B, G)
    - 3) ~~B) Exercises.~~ All nursing personnel shall assist residents in maintaining maximum joint range of motion ~~and/or~~ and active range of motion. (B, G)
    - 4) ~~G) Bowel and bladder retraining.~~ All nursing and auxiliary ~~personnel shall assist incontinent residents to regain their former bowel and bladder patterns.~~ Residents who are incontinent shall be evaluated for an individualized bowel and bladder program and such a program shall be instituted when appropriate. The use of indwelling catheters shall be discouraged. (B, G)

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## Section 300.1210(b) (continued)

- 5) ~~D) Retaining in activities of daily living.~~ All nursing personnel shall encourage and, when necessary, teach residents to function at their maximum level in all activities of daily living ~~for as long as and to the degree that they are able.~~ (B, ~~C~~)
- 6) ~~B) Ambulation.~~ All nursing personnel shall assist and encourage residents with ~~daily~~ ambulation as often as necessary (but not less than daily, unless otherwise ordered by the physician). (B, ~~C~~)
- 7) ~~F) Transfer activities.~~ All nursing personnel shall teach and assist residents with safe transfer activities in an effort to help them retain or regain their maximum level of independence. (B, ~~C~~)
- 8) ~~G)~~ Documentation of resident treatment and response to same shall be maintained as set forth in Section 300.1810(c). (B)
- c) General nursing care shall include at a minimum the following and shall be practiced on a 24-hour, seven day a week basis: (A, B)
- 1) ~~Proper administration of medications.~~ Medications including oral, rectal, hypodermic, and intramuscular shall be properly administered. (A, B)
  - 2) ~~The proper carrying out of treatment such as:~~ Treatments and procedures, including, but not limited to, enemas, irrigations, catheterizations, applications of dressings or bandages, supervision of special diets, ~~and other treatments involving a like level of skill,~~ shall be properly carried out. (A, B, ~~C~~)
  - 3) All treatments and procedures shall be administered as ordered by the physician. (A, B)
  - 4) ~~3)~~ Objective observations of changes in a resident's condition, including mental and emotional changes, as a means for analyzing and determining care required and ~~for~~ the need for further medical evaluation and treatment shall be made by nursing staff and recorded in the resident's medical record. (A, B, ~~C~~)
  - 5) ~~4)~~ Personal care, as defined in Section 300.330, ~~and hygiene such as, but not limited to, clean, neat, well-groomed hair; clean, trimmed fingernails and toenails; clean skin and freedom from~~

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## Section 300.1210(c)(5) (continued)

- ~~offensive odors; clean mouth and teeth; and care of lips to prevent dryness and cracking.~~ shall be provided on a 24-hour, seven day a week basis. This shall include, but not be limited to, the following: (A, B, ~~C~~)
- A) Each resident shall have proper daily personal attention, including skin, nails, hair, and oral hygiene, in addition to treatment ordered by the physician. (B)
- B) Each resident shall have at least one complete bath and hair wash weekly and as many additional baths and hair washes as necessary for satisfactory personal hygiene. (B)
- C) Each resident shall have clean suitable clothing in order to be comfortable, sanitary, free of odors, and decent in appearance. Unless otherwise indicated by their physician this should be street clothes and shoes. (B)
- D) Each resident shall have clean bed linens at least once weekly and more often if necessary. (B)
- 5) ~~Encouragement of residents to be dressed in their clothing whenever possible. Unless otherwise indicated by the physician, this should be street clothes and shoes.~~ (C)
- 6) ~~A regular program to prevent and treat decubiti including such measures as:~~ (A, B, C) ~~A regular program to prevent and treat pressure sores shall be practiced on a 24 hour, seven day a week basis, including, but not limited to:~~ (A, B)
- A) ~~Bathing, clean linens, and/or clothing each time the bed or clothing is soiled. Rubber, plastic, or other types of linen protectors (newspapers not acceptable) shall be properly cleaned and completely covered to prevent direct contact with the resident. If rubber, plastic, or other type of waterproof materials are used for protective pants, they shall not come in direct contact with the resident. Special attention shall be given to the skin to prevent irritations, skin rashes, or ulcerations.~~ An evaluation of each resident shall be conducted upon admittance and as necessary to determine the susceptibility of the resident to skin breakdown. Preventive measures and treatment measures shall be carried out by facility staff. (B)



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## Section 300.1210(c)(6) (continued)

- B) ~~Assistance in being up and out of bed as much as the condition of the resident permits. The resident may be denied this assistance only upon the written order of this physician. If the patient cannot move himself, he shall have his position changed as often as necessary.~~ Skin care shall be provided which includes but is not limited to bathing, clean linens, and clothing each time the resident, the bed or clothing is soiled. (B)
- C) Residents shall be assisted in being up and out of bed as much as possible and shall be repositioned whether in bed or out of bed as their condition indicates. (A, B)
- D) Proper equipment shall be utilized to prevent or treat pressure sores, such as proper padding between pressure points, adaptive equipment, splints, and water mattresses. (B)
- E) An evaluation of each resident's nutritional status shall be conducted to determine if increased nutritional support is needed. (B)
- 7) All necessary precautions shall be taken to assure the safety of residents at all times, such as but not limited to: nonslip wax on floors, side rails on beds, safe equipment and assistive devices properly maintained, and proper use of safety devices. (See Section 300.680.) (A, B, C)
- d) ~~Personal care shall include at a minimum the following: shall be provided on a twenty-four (24) hour, seven (7) day a week basis.~~
- 1) ~~Each resident shall have proper daily personal attention and for care including skin, nail, hair, and oral hygiene, in addition to treatment ordered by the physician. (B, C)~~
- 2) ~~Each resident shall have at least one (1) complete bath and hair wash weekly and as many additional baths and hair washes as necessary for satisfactory personal hygiene. (B, C)~~
- 3) ~~Each resident shall have clean suitable clothing in order to be comfortable, sanitary, free of odors, and decent in appearance. (C)~~
- 4) ~~Each resident shall have clean bed linens at least once weekly and more often if necessary. (C)~~

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## Section 300.1210 (continued)

- 5) ~~Each resident shall have sufficient clothing in good condition, to be properly dressed each day. (C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 300.1220 Director of Nursing Service/Health Services Supervisor and Assistant Director of Nursing Service/Health Services Supervisor

- a) Each skilled nursing facility shall have a director of nursing service/health services supervisor who shall be a registered nurse. In intermediate care facilities, the director of nursing service/health services supervisor shall be a registered nurse or a licensed practical nurse by education. (B)
- 1) This person shall have knowledge and training in nursing service administration and restorative/rehabilitative nursing. ~~She or he~~ This person shall also have some knowledge ~~and/or~~ and training in the care of the type of residents the facility cares for, (e.g., geriatric, pediatric, or psychiatric residents). This does not mean that the director of nursing must have completed a specific course or a specific number of hours of training in restorative/rehabilitative nursing unless ~~she or he is the~~ this person is in charge of the restorative/rehabilitative nursing program. (See Section 300.1210(b)). ~~(C)~~
- 2) This person shall be a full-time employee who is on duty a minimum of ~~thirty-six (36)~~ hours, four ~~(4)~~ days per week. At least 50% of this person's hours shall be regularly scheduled some time between 7 A.M. and 7 P.M. ~~(C)~~
- A) A facility of less than ~~fifty (50)~~ bed capacity may, with written approval from the Department, have two nurses share the duties of this position if it is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not

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## Section 300.1220(a)(2)(A) (continued)

acceptable or would not work full-time; and information about the numbers and availability of licensed nurses in the area. The Department will grant approval only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full-time.

B) If two persons are to share the position in an ICF, one shall be designated the Health Services Supervisor. Both of these persons may be (Registered Nurses) RN's, both may be LPN's, or one may be an RN and the other an LPN. In the latter case, the RN shall be designated as the Health Services Supervisor and the LPN shall be designated as the Assistant Health Services Supervisor.

C) In a facility licensed wholly or in part as a Skilled Nursing Facility, both of these persons must be RN's.

D) In facilities with a capacity of less than ~~fifty (50)~~ beds, this person may also provide direct patient care, and ~~he or she~~ this person's time may be included in meeting the staff-resident ratio requirements.

3) In skilled nursing facilities of ~~one hundred (100)~~ or more occupied beds, there shall be an assistant director of nursing service-health services supervisor who is a registered nurse licensed to practice in Illinois. This person shall also meet the qualifications specified in subsection (a)(1) of this Section for the director of nursing service-health services supervisor.

4) In intermediate care facilities of ~~one hundred fifty (150)~~ or more occupied beds, there shall be a licensed nurse designated as the assistant director of nursing service-health services supervisor (DONS/HSS). This person shall perform the duties of the DONS/HSS when the DONS/HSS is on vacation or extended sick leave. The assistant may provide direct patient care and be included in staff-resident ratio calculations.

5) The assistant shall be a full-time employee who is on duty a minimum of ~~thirty-six (36)~~ hours, four ~~(4)~~ days per week. The assistant may be assigned to work hours any time of the day or night. ~~(6)~~

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## Section 300.1220(a) (continued)

6) The assistant shall assist the DONS/HSS in carrying out ~~his or her~~ the responsibilities of the DONS/HSS.

7) If the DONS/HSS or the assistant have other duties which interfere with the proper performance of their duties, another nurse shall be assigned to perform the duties of the DONS/HSS or assistant for that period of time when they are performing such other duties.

b) The DONS/HSS shall oversee the nursing services of the facility. ~~He or she~~ This person's duties shall include:

1) Assigning and directing the activities of nursing service personnel.

2) Planning an up-to-date resident care plan for each resident based on ~~his or her~~ the resident's individual needs and goals to be accomplished, physician's orders, and personal care and nursing needs. Personnel, representatives of other services such as nursing, activities, dietary, and such other modalities as are ordered by the physician, shall be reflected in the preparation of the resident care plan. The plan shall be in writing and shall be reviewed and modified in keeping with the care needed as indicated by the resident's condition. The plan shall be reviewed at least every three ~~(3)~~ months.

3) Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

4) Participating in planning and budgeting for nursing services including purchasing of necessary equipment and supplies.

5) Developing ~~and/or~~ and maintaining nursing service objectives, standards of nursing practice, written policies and procedures, and written job descriptions for each level of nursing personnel.

6) Coordinating health services and nursing services with other resident care services such as medical, pharmaceutical, dietary activities, and any other restorative/rehabilitative services offered.

7) Planning of in-service education, embracing orientation, skill training, and on-going education for all personnel covering all



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## Section 300.1220(b)(7) (continued)

aspects of resident care and programming. The educational program shall include training and practice in activities and restorative/rehabilitative nursing techniques through out-of-facility or in-facility training programs. ~~He/she~~ This person may conduct these programs personally or see to it that they are carried out.

8) Participating in the development and implementation of resident care policies and bringing resident care problems, requiring changes in policy, to the attention of the facility's policy development group. (See Section 300.610(a))

9) Participating in the screening of prospective residents and their placement in terms of services they need and nursing competencies available.

~~10) Failure to provide nursing services in this section shall constitute a "B" violation. (B)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1230 Staffing

a) Staffing shall be based on the needs of the residents, and shall be determined by figuring the number of hours of nursing time each resident needs on each shift of the day. This determination shall be made separately for both licensed and nonlicensed nursing personnel. (A, B)

b) In a facility whose residents participate in regularly scheduled therapeutic programs outside the facility, such as school or sheltered workshops, the minimum hours per day of nursing care are reduced proportionately. Exceptions to the shift distribution will be allowed if more than 50% of the residents are regularly scheduled to be out of the facility, but the total required hours must be provided daily. For example: an ICF resident requires 1.75 hours of care per day, but attends a workshop for six hours five days a week. The resident's required minimum hours of care is reduced by 25% in calculating staffing hours required on week days.

c) It is the responsibility of each facility to determine the staffing needed to meet the needs of its residents.

d) In determining the level of care a resident needs, the patient

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evaluation system in Medical Review-Utilization Review program may be used. The facility may use other methods of determining skilled and intermediate level residents, but must make the method of determination used available to the Department. Residents whose care is reimbursed by the State shall be at the level determined by the Medical Review-Utilization Review patient evaluation system.

e) The designations used for shifts in the following tables ~~(i.e., 7-3, 3-11 and 11-7)~~ are used for illustrative purposes only, and are not meant to imply that other shift designations ~~such as 6-2, 8-4, 6-etc.~~ cannot be used by the facility.

f) The following figures apply to numbers of persons actually on duty and not to numbers of persons scheduled to be on duty.

g) The director of nursing's time shall not be included in staffing ratios.

h) 1) The following figures are also considered to be minimum requirements, and each facility, except those of ~~two hundred fifty (250)~~ or more occupied beds, shall provide at least the amount of staffing indicated. However, it is recognized that there may be occasional differences of opinion between facility staff and Department surveyors regarding the level of care an individual resident may require. When such differences occur, the surveyor shall determine whether or not the resident is receiving appropriate care. If ~~he/she~~ the resident is, the surveyor shall accept the facility's level of care determination in determining the number of nursing hours to be provided by the facility.

2) Facilities of more than ~~two hundred fifty (250)~~ occupied beds must meet the staff-resident ratio for the ~~two hundred fifty (250)~~ residents needing the highest level of care. Additional staff shall be provided to meet resident needs as determined by the facility and verified by the Department. The Department may, based upon the Department's Patient Care Evaluation System review of resident care, require the facility to provide additional nursing hours to meet resident needs.

i) In computing the number of persons needed in the following examples, any figure less than .25 will be dropped from the computation and any figure of .75 or higher will go to the next higher number. Figures

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in between .25 and .75 will require at least the amount of coverage indicated: ~~one~~ for example, .25 will require ~~2~~ two hours of coverage; .3 will require ~~2~~ two hours of coverage; .5 will require ~~4~~ four hours of coverage; .6 will require ~~5~~ five hours of coverage; .74 will require ~~6~~ six hours of coverage; ~~etc.~~ .75 or higher will require ~~8~~ eight hours of coverage.

- j) These additional hours may be provided by: a part-time person working those hours only on that shift each day; a full-time person working a shift that spans two regular shifts, ~~etc.~~ for example, from ~~12~~ noon to 8 P.M.; or by an additional full-time person on the shift. However, ~~keep in mind that~~ these figures are minimal staffing requirements, and it is recommended that a full-time person be provided.
- k) The facility shall schedule nursing personnel in such a manner that the needs of all residents are met. At least 40% of the minimum required hours shall be on the day shift, at least 25% of the minimum required hours shall be on the evening shift, and at least 15% of the minimum required hours shall be on the night shift.
- l) Skilled Nursing Care Residents needing skilled nursing care may only be cared for in facilities licensed as Skilled Nursing Facilities. Each resident needing skilled care shall be provided at least 2.5 hours of nursing/personal care each day, of which 20% must be licensed nurse time. (A, B)
- m) Intermediate Nursing Care - General: Residents needing intermediate care may be cared for in facilities licensed as either Skilled Nursing Facility or Intermediate Care Facility. Each resident needing intermediate care shall be provided at least 1.7 hours of nursing/personal care each day, of which at least 20% must be licensed nurse time. (A, B)
- n) Intermediate Nursing Care - Light: A Long-term care resident needing light intermediate care is one who needs personal care as defined in Section 1-120 of the Act; is mobile; requires some nursing services; needs a program of social services and activities directed toward independence in daily living skills; and needs daily monitoring. Each resident needing light intermediate care shall be provided with at least ~~1.00~~ one hour ~~of~~ of nursing/personal care each day, of which at least 20% must be licensed nurse time. (A, B)
- o) In order to determine the numbers of nursing personnel needed to

## Section 300.1230(o) (continued)

staff any facility, the following procedures shall be used:

- 1) The facility shall determine the number of residents needing skilled, general intermediate, and light intermediate or sheltered care.
- 2) The number of residents in each of the three categories shall be multiplied by the overall hours of coverage needed each day for each category.
- 3) Adding the hours of care needed for the residents in each of the three categories will give ~~you~~ the total hours of care needed by all residents in the facility.
- 4) Multiplying the total hours needed each day by the percentages assigned to each shift will give ~~you~~ the total minimum hours of care that must be provided on that shift. (Remember that the percentages assigned to each shift must total 100% each day.)
- 5) Multiplying the total minimum hours of care needed on each shift by 20% will give ~~you~~ the minimum amount of licensed nurse time that must be provided during a 24-hour period.
- 6) The remaining 80% of the minimum required nursing hours of care can be fulfilled by either nursing assistants or licensed nursing personnel as long as it can be documented that they provide restorative/rehabilitative nursing measures, general nursing care, ~~and/or~~ and personal care as defined in Section 300.1210.
- 7) The amount of time determined in subsection (5) and (6) is expressed in hours. Dividing the total number of hours needed by the number of hours each person works per shift (usually seven and one half ~~7 1/2~~ or eight ~~8~~ hours) will give ~~you~~ the number of persons needed to staff each shift.

## p) Example of Staffing Calculations

- 1) Following is an example of this computation assuming a 100 bed Skilled Nursing Facility which has 25 skilled, 50 general intermediate and 25 light intermediate residents, assigning 45% to day shift; 35% to evening shift and 20% to the night shift.



2) Staffing would be computed as follows:

A) Total Minimum Hours of Care Needed

Level of Care	# of Residents	Total Hrs. Needed/Day Per Resident	Total Hrs. Needed/Day Facility
Skilled	25 [times]	2.5	= 62.5
General ICF	50 [times]	1.7	= 85.0
Light ICF	25 [times]	1.0	= 25.0
Total hours needed			172.5

B) Minimum Total Hours Needed Per Shift

Shift	Total Hrs. Per Day	Minimum Percent	Total Hrs. Needed
7-3	172.5 [times]	45%	77.6
3-11	172.5 [times]	35%	60.4
11-7	172.5 [times]	20%	34.5
			172.5

C) Licensed Nurse Coverage

Shift	Minimum Hrs. Per Shift	Minimum Percent	Minimum Nurse Hours Required
7-3	77.6 [times]	20%	15.5
3-11	60.4 [times]	20%	12.1
11-7	34.5 [times]	20%	6.9

D) Licensed Nurses Required

Shift	Minimum Nurse Hrs. Required	Hrs. Worked Per Shift	# of Nurses Needed
7-3	15.5 [divided by]	8 =	1.93 (2)
3-11	12.1 [divided by]	8 =	1.51 (1.5)
11-7	6.9 [divided by]	8 =	0.86 (1)

E) Nurse Aide-Orderly Coverage

Shift	Minimum Nurse Hrs. Required	Hrs. Worked Per Shift	# of Nurses Needed
7-3	77.6 [minus]	15.6 =	62.1
3-11	60.4 [minus]	12.1 =	48.3
11-7	34.5 [minus]	6.9 =	27.6

F) Nurse Aides/Orderlies Required

Shift	Minimum Aide Hrs. Required	Hrs. Worked Per Shift	# of Aides Needed
7-3	62.1 [divided by]	8 =	7.76 (8)
3-11	48.3 [divided by]	8 =	6.03 (6)
11-7	27.6 [divided by]	8 =	3.45 (3.5)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 300.1240 Additional requirements

In addition to the ~~above~~ staffing requirements in Section 300.1230, the following staffing requirements also apply to all Skilled Nursing Facilities and Intermediate Care Facilities:

- There shall be a licensed nurse designated as being in charge of nursing services on all shifts when neither the director of nursing

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or assistant director of nursing are on duty. If registered nurses and licensed practical nurses are on duty on the same shift, this person shall be a registered nurse. This person may be a charge nurse on one of the nursing units. The director of nursing or assistant director of nursing will, of course, be in charge of nursing services during those shifts when they are on duty. (A, B)

b) There shall be at least one person awake, dressed and on duty at all times in each separate nursing unit. (A, B)

c) There shall be at least one registered nurse on duty seven ~~(7)~~ days per week on the day shift in a skilled nursing facility. (A, B)

d) There shall be at least one registered nurse or licensed practical nurse on duty at all times in an intermediate care facility or a skilled nursing facility. (A, B)

e) There shall be at least one registered nurse or licensed practical nurse on duty on each floor housing residents in a skilled nursing facility. (A, B)

f) The need for licensed nurses on each nursing unit in a skilled nursing facility and each floor or nursing unit in an intermediate care facility will be determined on an individual case basis, dependent upon the individual situation. If such additional staffing is required, the surveyor will inform the facility in writing of the kind and amount of additional staff time required, and the reason why it is needed.

g) The need for an additional licensed nurse to serve as a "house supervisor" will be determined on an individual case basis. If the surveyor determines that there is a need for a registered nurse in a skilled nursing facility or a licensed practical nurse in an intermediate care facility on certain shifts whose sole duties will consist of supervising the nursing services of the facility, the surveyor shall notify the facility in writing when and why such a person is needed. This person shall not perform the duties of a charge nurse while serving as the "house supervisor".

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## SUBPART G: RESIDENT CARE SERVICES

## Section 300.1410 Activity Program

a) There shall be a specific planned program of group and individual activities designed to encourage restoration to self care and maintenance of normal activity which is geared to the individual resident's needs. Activities shall be available daily and for a reasonable amount of time. Residents shall be given an opportunity to contribute to planning, preparation, conducting, cleanup, and critique of the program. (B—G—)

b) Activity personnel shall be provided to meet the needs of the residents and the program. Activity staff time each week shall total not less than 45 minutes multiplied by the number of residents in the facility. This time shall be spent in providing activity programming as described in subsection (e) of this Section as well as the planning and directing of the program. The time spent in the performance of other duties not related to the activity program shall not be counted as part of the required activity staff time. (In a facility whose residents participate in regularly scheduled therapeutic programs outside the facility, such as school, employment or sheltered workshop, the minimum hours per week of activity staff time may be reduced. The reduction shall be calculated by multiplying the number of residents in the facility who participate in such programs by the percentage of the day these residents spend in such programs.)

## c) Activity Director and Consultation

1) There shall be a trained staff person designated responsible for planning and directing the activities program. This person shall be regularly scheduled to be on duty in the facility at least ~~4~~ four days per week.

2) If this person is not a Registered Occupational Therapist, a Therapeutic Recreation Specialist, or a Certified Social Worker with specialized coursework in social group work, the facility shall have a written agreement with a person from one of those disciplines to provide consultation to the Activity Director at least monthly, in order to make sure that the activity programming meets the needs of the residents of the facility.

3) Any person designated as Activity Director who is responsible for planning and directing the activities program hired after December 24, 1987, shall have a high school diploma or equivalent.



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- 4) The activity director shall have a minimum of ten ~~(10)~~ hours of continuing education per year pertaining to activities programming.
- 5) Consultation will be required only every six months when the activity director meets or exceeds the criteria in Appendix E: Criteria for Activity Directors Who Need Only Minimal Consultation. (See Section 300.830(c) for consultant services when required).
- d) There shall be written permission, with any contraindications stated, given by the resident's physician for the resident to participate in the activity program. Standing orders will be acceptable with individual contraindications noted. (B-~~3-G~~)
- e) The activity program should include at a minimum the following program areas:
  - 1) Recreational activities (examples: games, both quiet and active; parties; and outside entertainment-~~etc.~~).
  - 2) Crafts (applicable for both men and women).
  - 3) Religious activities (examples: Bible study or discussion; Bible quizzes and games; hymn singing; and Grace at meals-~~etc.~~). These are in addition to routine religious services.
  - 4) Service activities for community ~~and/or~~ and facility (examples: assist with community fund drives; projects for orphanages; care of one's own area in the facility; and helping to fold linen-~~etc.~~).
  - 5) Intellectual and educational activities (examples: classes in writing, arithmetic, grooming, and social graces; planned group discussion; quizzes and word games; resident council; and newsletter-~~etc.~~).
  - 6) Community activities (examples: residents' participation in community activities such as plays; church events; band concerts; and ~~louis-etc.~~).
- f) A planned volunteer ~~and/or~~ or auxiliary program that assists with the activities program shall be encouraged. It shall be under the direction of a staff member in a supervisory capacity. ~~(G)~~

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- g) Documentation of resident's response to program shall be part of the resident's record as set forth in Section 300.1810(c).
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 300.1420 Specialized Rehabilitation Services
- If physical therapy, occupational therapy, speech therapy or any other specialized rehabilitative service is offered, it shall be provided by, ~~and/or~~ or supervised by, a qualified professional in that specialty and upon the written order of the physician. (B-~~3-G~~)
- a) In addition to the provision of direct services, any such qualified professional personnel shall be used as consultants to the total restorative program and shall assist with resident evaluation, resident care planning, and in-service education.
  - b) Appropriate records shall be maintained by these personnel. Direct service to individual residents shall be documented on the individual clinical record as set forth in Section 300.1810(c). A summary of program consultation and recommendations as set forth in Section 300.1810(h) shall be documented.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1430 Work Programs

- a) Work programs for individual residents in facilities shall be allowed only if they are oriented toward resident adjustment and therapeutic benefits and if they are approved in writing by the Department. Such programs should be a rarity in skilled nursing facilities. ~~(G)~~
- b) Permission for each such program shall be secured from the Department. Each program shall be presented in writing indicating such things as objectives, possible work assignment, duties, policies governing the program, agency involvement (where appropriate), and supervision. ~~(G)~~
- c) Residents involved in such programs shall meet all requirements of the Department for persons functioning in these positions. ~~(G)~~
- d) Residents shall not be used to replace employed staff. (B-~~3-G~~)

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- e) Appropriate records shall be maintained for each resident functioning in these programs. These shall show appropriateness of the program for the individual, resident's response to the program and any other pertinent observations and shall become a part of the resident's record. (See Section 300.1810(c).) ~~(c)~~
- f) All such programs shall be in full compliance with all applicable regulations of both the State and Federal Departments of Labor. Any program found by the Department not to be in compliance with State and Federal Departments of Labor regulations shall be terminated immediately. ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: MEDICATIONS

## Section 300.1610 Medication Policies and Procedures

- a) 1) Every facility shall adopt written policies and procedures, which are consistent with the purpose of the Act and these Rules and Regulations and which shall be followed in the operation of the facility, for properly and promptly obtaining, dispensing, administering, and disposing of drugs and medications. These policies and procedures shall be in compliance with all applicable Federal, State and local laws. (A, B)
- 2) These policies and procedures shall be developed with the advice of a pharmaceutical advisory committee which includes at least one ~~(1)~~ licensed pharmacist, one ~~(1)~~ physician, the administrator and the Director of Nursing Services (Skilled Nursing Facility), or Health Services Supervisor (Intermediate Care Facility). This Committee shall meet at least quarterly. (B-~~1-6~~)
- b) All legend medications maintained in the facility shall be on individual prescription or from the physician's personal office supply, and shall be properly labeled as set forth in Section 300.1640. A physician who supplies medication from his personal office supply must comply with the ~~all~~ requirements of Section 33 of the ~~"Illinois Medical Practice Act"~~ of 1987 (Ill. Rev. Stat. 1981, ch. 111, par. 4401-4400-33 ~~et seq.~~) ~~and the "Controlled Substances Act" (Ill. Rev. Stat. 1981, ch. 56 1/2, par. 1101 et seq.), and the rules promulgated thereunder.~~ (B-~~1-6~~)

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- c) All medications administered shall be properly recorded as set forth in Section 300.1810(d). (B-~~1-6~~)
- d) The staff pharmacist or consultant pharmacist shall participate in the planned in-service education program of the facility on topics related to pharmaceutical service. ~~(c)~~
- e) Permission must be obtained from this Department prior to the opening of any pharmacy in a facility. Such permission will be granted only if it can be shown that the operation of the pharmacy will not interfere in any way with the residents. The pharmacist shall then obtain a license to operate the pharmacy in accordance with the rules and regulations of the ~~Illinois~~ Department of Professional Regulation ~~Registration and Education~~. ~~(c)~~
- f) No facility shall maintain a stock supply of controlled drugs or legend drugs, except for those in the emergency medication kits and convenience boxes, as described in subsections (h) and ~~Section 300.1610~~ (i) of this Section. (B-~~1-6~~)
- g) A facility may stock drugs which are regularly available without prescription at a commercial pharmacy, such as: noncontrolled cough syrups, laxatives, and analgesics. These shall be given to a resident only upon written order of the physician, dentist, or podiatrist, shall be administered from the original containers, and shall be recorded in the resident's clinical record. (B-~~1-6~~)
- h) A facility may keep "convenience boxes" containing a reasonable number of medications normally used to treat conditions when residents suddenly become ill in non-life-threatening situations. There shall be no more than six ~~(6)~~ single doses of any one medication for each ~~one hundred (100)~~ licensed beds or portion thereof. Such conditions may include, but are not limited to; convulsions, serious emotional upsets, diarrhea, infection, severe pain, etc. A dose shall be that amount listed by the manufacturer as the "usual dose" of the medication for adults. If the "usual dose" is two ~~(2)~~ tablets, the facility may keep ~~twelve (12)~~ tablets in the convenience box. (B-~~1-6~~)
- 1) The contents and number of these "convenience boxes" shall be determined by the pharmaceutical advisory committee, and there shall be a label on the outside of each box, listing the contents. (B-~~1-6~~)
- 2) Each "convenience box" shall be under the control of the



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pharmacy which supplies the contents of the box, and it shall be kept in a locked medicine room or cabinet. (B-7-G-)

- 3) No Schedule II substances shall be kept in "convenience boxes." (B-7-G-)

i) Emergency medication kits containing drugs necessary for life saving measures shall be approved by the facility's pharmaceutical advisory committee, and shall be available for immediate use at all times in locations as determined by the pharmaceutical advisory committee. (B-7-G-)

- 1) In order to provide better security for the contents of these kits, it is recommended that some type of seal be placed on each kit after it has been checked and refilled. This would ensure that the contents of each kit is intact when needed in an emergency.

- 2) These kits shall consist of no more than three ~~(3)~~ single, injectable doses of only a few medications, such as those necessary to treat: cardiac arrest, acute coronary, acute cardiac failure, asthmatic ~~and/or~~ or allergic reactions, acute convulsions, acute pain, shock, diabetic coma, insulin shock, and an acute respiratory infection requiring emergency administration of a starter dose of an injectable antibiotic. The kits should also contain all of the equipment needed to administer these medications, such as a tourniquet, proper size needles and syringes, and alcohol swabs. It is also permissible to have an airway in these kits. (A, B-7-G-)

- 3) The contents of these kits shall be labeled on the outside of each kit. The kits shall be refilled as needed. They shall be reviewed by the pharmaceutical advisory committee regarding content at least quarterly. Written documentation of this review shall be maintained. (B-7-G-)

j) Since emergency medication kits must be available for immediate use at all times, the following requirements must be met when controlled substances are kept as part of the emergency medication kits: (B-7-G-)

- 1) The controlled substances must be stored separately in a locked cabinet or room, and labeled as to substance and the fact that they are a part of the emergency medication kit. The label of the emergency kit shall list the substances and the specific

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location where they are stored. (B-7-G-)

- 2) The controlled substances must be obtained from a Drug Enforcement Administration registered hospital, pharmacy, or practitioner. (B-7-G-)

- 3) Only the director of nursing services, registered nurse on duty, licensed practical nurse on duty, consultant pharmacist or practitioner shall have access to these controlled substances. (B-7-G-)

- 4) No more than ten different controlled substances shall be kept as part of an emergency medication kit, and there shall be no more than three single, injectable doses of any one controlled substance. (B-7-G-)

- 5) These controlled substances may be administered only under the emergency conditions set forth in Section 300.1610(i)(2) and only by registered nurses, licensed practical nurses or practitioners, in compliance with 21 CFR 1306.11 and 21 CFR 1306.21 and the Department of Professional Regulation's ~~Registration and Education~~ rule for the administration of the Illinois Controlled Substance Act (77 Ill. Adm. Code 1650). (B-7-G-)

- 6) A proof-of-use sheet shall be stored with each separate controlled substance. Entries shall be made on the proof-of-use sheet by the nursing staff or practitioner when any controlled substance from the kit is used. The consultant pharmacist shall receive and file for two years a copy of all completed proof-of-use sheets. (B-7-G-)

- 7) Whenever the controlled substance portion of an emergency medication kit is opened, the consultant pharmacist shall be notified within 24 hours. During any period when this kit is opened, a shift count shall be done on all controlled substances until the kit is closed or locked by the consultant pharmacist. Shift counts are not mandatory when the kit is sealed. Proper forms for shift counts shall be kept with these portions of emergency medication kits. (B-7-G-)

- 8) The consultant pharmacist shall check the controlled substances portions of emergency medication kits at least monthly and so document on the outside of each kit. (B-7-G-)

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- 9) Failure to comply with any provision of this rule, or of any applicable provision of state or federal statutes or regulations pertaining to controlled substances shall result in loss of the privilege of having or placing controlled substances in emergency medication kits until such time as the facility can demonstrate that it is in compliance with such regulations. This is in addition to the usual methods of corrective action available to the Department, such as fines and ~~or~~ other penalties.

- k) Oxygen may be administered in a facility either as concentrated bottled oxygen or via means of an oxygen concentrator. Storage and handling of the bottled oxygen supply shall be in accordance with the 1977 National Fire Protection Association Standards, but no subsequently amended edition of the standards, for nonflammable medical gas systems. (See Section 300.2820 or Section 300.3020 as appropriate). The facility must be in compliance with directions for use of oxygen concentrators as established by the manufacturer. (A, B-~~7-G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 300.1620 Conformance With Physician's Orders

- a) 1) All medications, including cathartics, headache remedies, or vitamins, shall be given only upon the written order of a physician. All such orders shall have the handwritten signature of the physician. (Rubber stamp signatures are not acceptable.) These medications shall be given as prescribed by the physician and at the designated time. (A, B-~~7-G~~)
- 2) Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written on the resident's clinical record, or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within five ~~(5)~~ working days. Facilities participating in Medicare/Medicaid must meet the applicable Federal regulations. (B-~~7-G~~)

- b) Review of medication orders: The staff pharmacist or consultant pharmacist shall review the medical record, including physician orders and laboratory test results, at least monthly and, based on ~~his/her~~ their clinical experience and judgment, determine if there

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are irregularities which would cause potential adverse reactions, allergies, contraindications, or ineffectiveness. This review shall be done at the facility. Documentation of this review must be entered in the clinical record. Any irregularities noted shall be reported to the attending physician, the advisory physician, and the administrator. (A, B-~~7-G~~)

- c) A medication order not specifically limiting the time or number of doses shall be automatically stopped in accordance with written policies approved by the pharmaceutical advisory committee. (B-~~7-G~~)
- d) The resident's attending physician shall be notified of medications about to be stopped so that the physician ~~be~~ may promptly renew such orders to avoid interruption of the resident's therapeutic regimen. (B-~~7-G~~)
- e) All medications to be released to the resident, or person responsible for the resident's ~~his/her~~ care, at the time of discharge or when the resident is going to be temporarily out of the facility at medication time, (such as when attending a vocational training program or on a weekend pass) shall be approved by the physician. A notation concerning their disposition shall be made on the resident's clinical record. ~~-(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 300.1630 Administration of Medication

- a) All medications shall be administered only by licensed medical or licensed nursing personnel in accordance with their respective licensing requirements. (Some schools of nursing, especially some licensed practical nursing schools, do not include pharmacology courses. It is required that graduates of such schools successfully complete a course in pharmacology or have at least one year's fulltime equivalent experience in administering medications in a health care setting, in order to be considered to "have either training or experience, or both, in the job assigned to them" [Section 300.650(b)(1)], if their duties include administering medications to residents.) (A, B-~~7-G~~)

- 1) Medications shall be administered as soon as possible after doses are prepared and administered by the same person who prepared the doses for administration, except under single unit dose packaged distribution systems. (B-~~7-G~~)



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- 2) Each dose administered shall be properly recorded in the clinical records by the person who administers the dose. (See Section 300.1810(d)) (A, B-~~1-6~~)
- 3) Self-administration of medication shall be permitted only upon the written order of the attending physician. (B-~~1-6~~)
- b) The facility shall have medication records which shall be used and checked against the physician's orders to assure proper administration of medicine to each resident. Such records as computer generated medication sheets may be used. Medication records shall include or be accompanied by recent photographs or other means of easy identification such as resident identification wristbands. Medication records shall contain the resident's name, diagnoses, known allergies, current medications, and, if possible, a history of prescription and non-prescription medications taken by the resident during the ~~thirty~~ (-30-) days prior to admission to the facility. (B-~~1-6~~)

- c) Medications prescribed for one resident shall not be administered to another resident. (B-~~1-6~~)
- d) If for any reason, a physician's medication order cannot be followed, the physician shall be notified as soon as is reasonable, depending upon the situation, and a notation made on the resident's record. (B-~~1-6~~)

- e) Medication errors and drug reactions shall be immediately reported to the resident's physician and the consulting pharmacist. An entry thereof shall be made in the resident's clinical record and the error or reaction shall also be described in an incident report. (A, B)
- f) Nurses' stations shall be equipped as per Sections 300.2860(e) or 300.3060(d) and shall have all necessary items readily available for the proper administration of medications. ~~(C)~~

- g) Current medication references shall be available, such as the current edition of "Facts and Comparisons, Hospital Formulary," "Physician's Desk Reference" or other suitable references. ~~(C)~~

i) Attorney General's Opinion File No. S-1033, dated Jan. 9, 1976 concluded that the administration of medication to residents of licensed long-term care facilities is a nursing procedure, as defined in the Illinois Nursing Act (Ill. Rev. Stat. 1985, ch. 111, par. 3401 et seq.), and as such, cannot be performed by persons who are not licensed as either Registered

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## Section 300.1630 (continued)

Professional Nurses or Licensed Practical Nurses. The opinion concluded by stating that "nursing aides, orderlies, attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer medications to patients in nursing homes."

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1640 Labeling and Storage of Medications

- a) All medications for all residents shall be properly labeled and stored at, or near, the nurses' station, in a locked cabinet, a locked medication room, or one or more locked mobile medication carts of satisfactory design for such storage. (See Subsections (f) and (g) of this Section) (B)
- 1) These cabinets, rooms, ~~and/or~~ and carts shall be well lighted and of sufficient size to permit storage without crowding. (B-~~1-6~~)
- 2) All mobile medication carts shall be under the visual control of the responsible nurse at all times when not stored safely and securely either in a locked room or otherwise made immobile. (B-~~1-6~~)
- b) All medications for external use shall be kept in a separate area in the medicine cabinet, medicine room, or mobile medication cart. (B-~~1-6~~)
- c) All poisonous substances and other hazardous compounds, such as sterilization solutions, irrigation solutions, antiseptics, and diagnostic reagents ~~etc.~~, shall be kept in a separate locked container away from medications. (B)
- d) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked box within a refrigerator or a locked refrigerator, at or near the nurses' station or in a refrigerator within a locked medication room. (B)
- e) The key to the medicine cabinet, medicine room ~~and/or~~ or mobile medication cart shall be the responsibility of, and in the possession of, the persons authorized to handle and administer medications, at all times. (B-~~1-6~~)
- f) The label of each individual multi-dose medication container filled

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## Section 300.1640(f) (continued)

by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name, strength and quantity of drug, date this container was last filled, the initials of the pharmacist filling the prescription, the identity of the pharmacy, and any necessary special instructions. If the individual multi-dose medication container is dispensed by a physician from his own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist and prescription number. ~~(G)~~

g) Each single unit ~~and/or~~ or unit dose package shall bear the proprietary ~~and/or~~ or nonproprietary name of the drug, strength of dose and total contents delivered, lot or control number, and expiration date, if applicable. The names of the resident and the physician do not have to be on the label of the package, but they must be identified with the package in such a manner as to assure that the drug is administered to the right resident. Appropriate accessory and cautionary statements and any necessary special instruction shall be included, as applicable. Hardware for storing and delivering the medications shall have a label bearing the identity of the dispensing pharmacy. The pharmacist shall provide written verification of the date the medications were dispensed and the initials of the pharmacist who reviewed and verified the medications on hand. The pharmacist need not store such verification at the facility but shall readily make it available to the Department upon request. The lot or control number need not appear on unit dose packages if the dispensing pharmacy has a system for identifying those doses recalled by the manufacturer/distributor or if the dispensing pharmacy will recall and destroy all dispensed doses of a recalled medication, irrespective of a manufacturer's/distributor's specifically recalled lot. ~~(B-7-G)~~

h) Medication in containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Medications in containers having no labels shall be destroyed in accordance with Federal and State laws. ~~(B-7-G)~~

i) The medications of each resident shall be kept and stored in their originally received containers. Medications shall not be transferred between containers, except that a licensed nurse may remove medication from original containers and place it in other containers to be sent with a resident when the resident will be out of the facility at the time of scheduled administration of medication, as, for instance, when the resident is on a home visit or away from the

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## Section 300.1640(i) (continued)

facility for employment, workshop, or educational activities. When medication is sent out of the facility with the resident, it shall be labeled by the nurse with the name of the resident, name of the medication, instructions for taking and any other appropriate information. ~~(B-7-G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1650 Control of Medications

- a) The facility shall comply with all Federal and State laws and regulations relating to the procurement, storage, dispensing, administration, and disposal of medications.
- b) All Schedule II controlled substances shall be stored in such a manner so that two ~~(2)~~ separate locks, using two ~~(2)~~ different keys, must be unlocked to obtain these substances. This may be accomplished by several methods such as locked cabinets within locked medicine rooms, separately locked, securely fastened boxes (or drawers) within a locked medicine cabinet, locked portable medication carts, which are stored in locked medicine rooms when not in use, or portable medication carts containing a separate locked area within the locked medication cart, when such cart is made immobile. ~~(B-7-G)~~
- c) All discontinued medications, or those having an expiration date that has passed, and all medications of residents who have been discharged or who have expired, shall be disposed of in accordance with the written policies and procedures that have been established by the facility in accordance with Section 300.1610. This rule shall not apply to residents who have been temporarily transferred to a hospital or who are on a temporary home visit. Medications for such persons shall be kept in the facility until such time as the resident expires or is discharged from the facility. ~~(B-7-G)~~
- d) 1) For all Schedule II substances, a controlled substances record shall be maintained which lists on separate sheets, for each type and strength of Schedule II substance, the following information: date, time administered, name of resident, dose, physician's name, signature of person administering dose, and number of doses remaining. ~~(G)~~



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## Section 300.1650(d) (continued)

- 2) The pharmaceutical advisory committee may also require that other medications shall be subject to such inventory records.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART I: RESIDENT AND FACILITY RECORDS

## Section 300.1810 Resident Record Requirements

- a) Each facility shall have a medical record system that facilitates the retrieval of information regarding individual residents as demonstrated by the facility. ~~(G)~~
- b) The facility shall keep an active medical record for each resident. This resident record shall be kept current, complete, legible and available at all times to those personnel authorized by the facility's policies, and to the Department's representatives. ~~(G)~~
- c) Record entries shall meet the following requirements:
- 1) Record entries shall be made by the person providing or supervising the service or observing the occurrence that is being recorded. ~~(G)~~
  - 2) Each record entry shall be written in ink or typed, shall be signed, dated, and shall include the profession or title of the person making the entry. ~~(G)~~
  - d) All physician's orders, plans of treatment, Medicare or Medicaid certification, recertification statements, and similar documents shall have the original written signature of the physician. The use of a physician's rubber stamp signature, with or without initials, is not acceptable. ~~(G)~~
  - e) An ongoing resident record including progression toward and regression from established resident goals shall be maintained. ~~(B)~~  
~~(G)~~

- 1) The progress record shall indicate significant changes in the resident's condition. Any significant change shall be recorded upon occurrence by the staff person observing the change. ~~(B)~~  
~~(G)~~
- 2) Recommendations and findings of direct service consultants, such

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## Section 300.1810(e)(2) (continued)

as providers of social, dental, dietary or rehabilitation services, shall be included in the resident's progress record when the recommendations pertain to an individual resident. ~~(G)~~

- f) A medication administration record shall be maintained which contains the date and time each medication is given, name of drug, dosage, and by whom administered. ~~(G)~~
- g) Treatment sheets shall be maintained recording all resident care procedures ordered by each resident's attending physician. Physician ordered procedures which shall be recorded include, but are not limited to, the prevention and treatment of decubitus ulcers, weight monitoring to determine a resident's weight loss or gain, catheter/ostomy care, blood pressure monitoring, and fluid intake and output. ~~(G)~~
- h) The facility shall have the option of using universal progress notes in the medical records.
- i) Each facility shall have a policy regarding the retirement and destruction of medical records. This policy shall specify the time frame for retiring a resident's medical record, and the method to be used for record destruction at the end of the record retention period. The facility's record retirement policy shall not conflict with the record retention requirements contained in Section 300.1840 of this Part. ~~(G)~~
- j) Discharge information shall be completed within ~~forty-eight~~ 48 hours after the resident leaves the facility. The resident care staff shall record the date, time, condition of the resident, to whom released, and the resident's planned destination (home, another facility, undertaker). This information may be entered onto the admission record form. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.1820 Content of Medical Records

- a) No later than the time of admission, the facility shall enter the following information onto the identification sheet or admission sheet for each resident:
- 1) Name, sex, date of birth and Social Security Number,

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## Section 300.1820(a) (continued)

- 2) Marital Status, and the name of spouse (if there is one),
  - 3) Whether the resident has been previously admitted to the facility,
  - 4) Date of current admission to the facility,
  - 5) State or country of birth,
  - 6) Home address,
  - 7) Religious affiliation (if any),
  - 8) Name, address and telephone number of any referral agency, state hospital, zone center or hospital from which the resident has been transferred (if applicable),
  - 9) Name and telephone number of the resident's personal physician,
  - 10) Name and telephone number of the resident's next of kin or responsible relative,
  - 11) Race and origin,
  - 12) Most recent occupation,
  - 13) Whether the resident or the resident's spouse is a veteran,
  - 14) Father's name and mother's maiden name,
  - 15) Name, address and telephone number of the resident's dentist, and
  - 16) The diagnosis applicable at the time of admission.
- b) At the time of admission, the facility shall obtain a history of prescription and non-prescription medications taken by the resident during the ~~thirty~~ 30 days prior to admission to the facility (if available).
- c) In addition to the information that is specified above, each resident's medical record shall contain the following:
- 1) Medical history and physical examination form that includes conditions for which medications have been prescribed, physician findings, all known diagnoses and restoration potential. This

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## Section 300.1820(c)(1) (continued)

- shall describe those known conditions that the medical and resident care staff should be apprised of regarding the resident. Examples of diagnoses and conditions that are to be included are allergies, epilepsy, diabetes and asthma. ~~(c)~~
- 2) A physician's order sheet that includes orders for all medications, treatments, therapy and rehabilitation services, diet, activities and special procedures or orders required for the safety and well-being of the resident. ~~(c)~~
  - 3) Nurse's notes that describe the nursing care provided, observations and assessment of symptoms, reactions to treatments and medications, progression toward or regression from each resident's established goals, and changes in the resident's physical or emotional condition. (B-~~g~~)
  - 4) An ongoing record of notations describing significant observations or developments regarding each resident's condition and response to treatments and programs.
- A) Physicians and other consultants who provide direct care or treatment to residents shall make notations at the time of each visit with a resident. ~~(c)~~
- B) Significant observations or developments regarding resident responses to activity programs, social services, dietary services and work programs shall be recorded as they are noted. If no significant observations or developments are noted for three months, an entry shall be made in the record of that fact. ~~(c)~~
- C) Significant observations or developments regarding resident responses to nursing and personal care shall be recorded as they are noted. If no significant observations or developments are noted for a month, an entry shall be made in the record of that fact. ~~(c)~~
- 5) Any laboratory and x-ray reports ordered by the resident's physician. ~~(c)~~
  - 6) Documentation of visits to the resident by a physician and to the physician's office by the resident. ~~(c)~~ The physician shall record, or dictate and sign, the results of such visits, such as changes in medication, observations and recommendations made by the physician during the visits, in the record.



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## Section 300.1820(c) (continued)

- 7) The results of the physical examination conducted pursuant to Section 300.1010(g) of this Part. ~~(c)~~
- 8) Upon admission from a hospital or state facility, a hospital summary sheet or transfer form that includes the hospital diagnosis and treatment, and a discharge summary. This transfer information, which may be included in the transfer agreement, shall be signed by the physician who attended the resident while in the hospital.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1830 Records Pertaining to Residents' Property

- a) The facility shall maintain a record of any resident's belongings, including money, valuables and personal property, accepted by the facility for safekeeping. This record shall be initiated at the time of admission and shall be updated on an ongoing basis and made part of the resident's record. ~~(c)~~
- b) When purchases are made for a resident from the resident's personal monies, receipts shall be obtained and retained that verify the date, amount, and items purchased. ~~(c)~~
- c) A separate bookkeeping system shall be maintained by the facility which accounts for all transactions affecting each resident's account. Each individual resident, or the individual resident's representative, shall have access to the record of that individual resident's account. ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1840 Retention and Transfer of Resident Records

- a) Records of discharged residents shall be placed in an inactive file and retained as follows:
  - 1) Records for any resident who is discharged prior to being ~~eighteen~~ ~~(18)~~ years old shall be retained at least until the resident reaches the age of ~~twenty-three~~ ~~(23)~~. ~~(c)~~
  - 2) Records of residents who are over ~~eighteen~~ ~~(18)~~ years old at the time of discharge shall be retained for a minimum of five

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- ~~(5)~~ ~~(c)~~ years. ~~(c)~~
- b) After the death of a resident, the resident's record shall be retained for a minimum of five ~~(5)~~ years. ~~(c)~~
- c) It is suggested that the administrator check with legal counsel regarding the advisability of retaining resident records for a longer period of time, and the procedures to be followed in the event the facility ceases operation.
- d) When a resident is transferred to another facility, the transferring facility shall send with the resident a reason for transfer, summary of treatment and results, laboratory findings, and orders for the immediate care of the resident. This information may be presented in a transfer form or an abstract of the resident's medical record. ~~(B, c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1850 Other Resident Record Requirements

This Section contains references to rules located in other Subparts that pertain to the content and maintenance of medical records.

- a) The resident's record shall include facts involved if the resident's discharge occurs despite medical advice to the contrary, as required by Section 300.620(f) of this Part.
- b) The resident's record shall identify the reasons for any order and use of safety devices or restraints, as required by Sections 300.680(c) and 300.1040(d), respectively, of this Part.
- c) The resident's record shall include information regarding the physician's notification and response regarding any serious accident or injury, or significant change in condition, as required by Section 300.1010(h) of this Part.
- d) The resident's record shall contain the physician's permission, with contraindications noted, for participation in the activity program, as required by Section 300.1410(d) ~~(c)~~ of this Part.
- e) The records of residents participating in work programs shall document the appropriateness of the program for the resident and the resident's response to the program, as described in Section 300.1430(e) of this Part.

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## Section 300.1850 (continued)

- f) Telephone orders shall be transcribed into the resident's medical record or a telephone order form and signed by the nurse taking the order, as described in Section 300.1620(a)(2) of this Part.
- g) Documentation of the review of medication orders shall be entered in ~~to~~ the resident's medical record as described in Section 300.1620(b) of this Part.
- h) The resident's medical record shall include notations indicating any release of medications to the resident or person responsible for the resident's care, as described in Section 300.1620(e) of this Part.
- i) Instances of inability to implement a physician's medication order shall be noted in the resident's medical record, as described in Section 300.1630(d) of this Part.
- j) Medication errors and drug reactions shall be noted in the resident's medical record as described in Section 300.1630(e) of this Part.
- k) The resident's record shall include the physician's diet order and observations of the resident's response to the diet, as described in Section 300.2040 of this Part.
- l) The resident's record shall contain any physician determinations that limit the resident's access to the resident's personal property, as described in Section 300.3210(b) of this Part.
- m) The facility shall comply with Section 300.3210(g) of this Part, which requires that any medical inadvisability regarding married residents residing in the same room be documented in the resident's record.
- n) The facility shall permit each resident, resident's parent, guardian or representative to inspect and copy the resident's medical records as provided by Section 300.3220(g) of this Part.
- o) Any resident transfer or discharge mandated by the physical safety of other residents shall be documented in the resident's medical record as required by Sections 300.3300(d) and (g) of this Part.
- p) Summaries of discussions and explanations of any planned involuntary transfers or discharges shall be included in the medical record of the resident that is to be involuntarily transferred or discharged, as described in Section 300.3300(j) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.1860 Staff Responsibility for Medical Records

- a) Each skilled nursing facility shall have a medical records practitioner. ~~(c)~~
- 1) Each skilled nursing facility that has a full-time or part-time medical records practitioner shall designate that employee as the person responsible for ensuring that the facility's medical records are completed, maintained and preserved in accordance with this Subpart. ~~(c)~~
- 2) Each skilled nursing facility that does not have a full-time or part-time practitioner shall designate an employee to be responsible for completing, maintaining and preserving the facility's medical records. This individual shall be trained by, and receive regular consultation from a medical records practitioner in order to meet the requirements contained in this Subpart. ~~(c)~~
- b) Each intermediate care facility that does not have a full-time or part-time medical records practitioner shall designate an employee to be responsible for completing, maintaining and preserving the medical records in accordance with the requirements contained in this Subpart. ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.1870 Retention of Facility Records

The facility shall retain the records referenced in this Section for a minimum of three years. ~~(c)~~ It is suggested that the administrator check with legal counsel regarding the advisability of retaining records for a longer period of time, and the procedures to be followed in the event the facility ceases operation. The records for which this requirement applies are as follows:

- a) The annual financial statement described in Section 300.210 of this Part.
- b) The minutes of resident advisory council meetings required by Section 300.640(k) of this Part.
- c) The records of in-service training required by Section 300.650(b)(3) of this Part.
- d) Copies of reports of serious incidents or accidents involving



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- residents required by Section 300.690 of this Part.
- e) Records of the emergency medication kit review by the pharmaceutical advisory committee required by Section 300.1610(i)(3) of this Part.
  - f) The reports of findings and recommendations from consultants required in Section 300.1880(a) of this Part.
  - g) Copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation as required by Section 300.1880(d) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.1880 Other Facility Record Requirements

- a) The facility shall maintain a file of reports of findings and recommendations from consultants. Each report shall be dated and indicate each specific date and time the consultant was in the facility. ~~-(6)-~~
- b) The facility shall complete the Illinois Department of Public Health Annual Long Term Care (LTC) Facility Survey. ~~-(6)-~~
- c) The facility shall maintain a permanent chronological resident registry showing date of admission, name of resident and date of discharge or death. ~~-(6)-~~
- d) The facility shall make available to the Department upon request copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation. ~~-(6)-~~
- e) Rules located in other Sections of this Part that pertain to the content and maintenance of facility records are as follows:
  - 1) The facility shall file an annual financial statement as described in Section 300.210 of this Part.
  - 2) Records and daily time schedules shall be kept on each employee as set forth in Section 300.650(a) and (b) of this Part.
  - 3) The facility shall maintain a controlled substances record as described in Section 300.1650(d) of this Part.

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## Section 300.1880(e) (continued)

- 4) Menu and food purchase records shall be maintained as set forth in Section 300.2080(d) and (f) of this Part.
- 5) The facility shall maintain a file of all reports of serious incidents or accidents involving residents as required by Section 300.690 of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART J: FOOD SERVICE

## Section 300.2010 Director of Food Services

- a) Each facility shall have a full-time person, suited by training and experience, who has been designated by the administrator to be responsible for the total food service operation of the facility. This person shall be on duty a minimum of ~~forty~~ ~~-(40)-~~ hours each week. ~~(B-4-6)~~
- 1) This person shall be either a dietitian or a dietetic service supervisor as defined in Section 300.330. ~~(B-4-6)~~
- 2) The food service supervisor (director) may assume some cooking duties but only if these duties do not interfere with the responsibilities of management and supervision. ~~-(6)-~~
- b) Consultation
  - 1) If the person responsible for food service is not a dietitian, ~~he/she~~ the person shall have frequent and regularly scheduled consultation from a dietitian. This consultation, given in the facility, shall not be less than four ~~-(4)-~~ hours each month and shall include consultation and training in all food service procedures such as menu planning and review, food preparation, food storage, food service, safety, sanitation and management of therapeutic diets. In-service education in appropriate subject areas shall be given to all facility staff. ~~-(6)-~~
  - 2) Additional for Skilled Nursing Facilities  
In skilled nursing facilities such consultation shall be given not less than eight ~~-(8)-~~ hours per month.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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## Section 300.2020 Dietary Staff in Addition to Director of Food Services

There shall be sufficient number of food service personnel employed and on duty to meet the dietary needs of all persons eating meals in the facility. Their working hours shall be scheduled to meet the total dietary needs of the residents. All dietary employees' time schedules and work assignments shall be posted in the kitchen. Dietary duties and job procedures shall be available in the dietary department for employees' knowledge and use. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2030 Hygiene of Dietary Staff

Food service personnel shall be in good health, shall practice hygienic food handling techniques, and good personal grooming. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2040 Diet Orders

a) Physicians shall write a diet order, in the medical record, for residents indicating whether the resident is to have a general or a therapeutic diet and the diet shall be served as ordered. A diet order for each resident shall be sent in writing to the food service department for each new admission and for every subsequent change in diet for that resident ordered by his physician. ~~(C)~~

b) A diet order for each resident shall be sent in writing to the food service department. The diet order shall include at a minimum the following information: name of resident, room ~~and/or~~ and bed number, type of diet, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department. (See Section 300.2060 for ordering therapeutic diets.) ~~(C)~~

c) The resident shall be observed to determine acceptance of the diet and these observations shall be recorded in his record. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2050 Adequacy of Diet and Meal Pattern

The daily food allowance for each resident shall meet the basic food pattern

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## Section 300.2050 (continued)

for a general diet for an adult following the recommendations of the Food and Nutrition Board, National Research Council, and shall include:

a) Milk and Milk Products: Two ~~(2)~~ or more eight ~~(8)~~ ounce servings of Grade A whole or low fat pasteurized milk where milk is used for fluid consumption (See Section 300.2100). Cheese and ice cream may be used to replace part of the milk. The amount of either needed to replace a given amount of milk is figured on the basis of calcium content. The equivalents are as follows:

- 1) One ~~(1)~~ inch cube of cheddar type cheese equals one half ~~(1/2)~~ cup milk
- 2) Two-thirds ~~(2/3)~~ cup cottage cheese equals one half ~~(1/2)~~ cup milk
- 3) One ~~(1)~~ cup ice cream equals one half ~~(1/2)~~ cup milk
- 4) Note: If cheese is used as a serving of milk it may not be also counted as a serving of protein in the Meat Group.

b) Meat Group: Two ~~(2)~~ or more servings of protein food of good quality. The following are examples of one ~~(1)~~ serving:

- 1) Three ~~(3)~~ ounces (excluding bone and fat) of any cooked meat such as whole or ground beef, veal, pork or lamb; poultry; organ meats such as liver, heart, kidney; prepared luncheon meats.
- 2) Three ~~(3)~~ ounces cooked fish or shell fish or one half ~~(1/2)~~ cup canned fish.
- 3) Three ~~(3)~~ ounces of natural or processed cheese or three-fourths ~~(3/4)~~ cup cottage cheese.
- 4) Three ~~(3)~~ eggs (minimum weight 21 ounces per dozen).  
Note: If one egg ~~(1)~~ is served for breakfast, a protein food of good quality may be reduced from six ~~(6)~~ to five ~~(5)~~ ounces for the remaining meals. If two ~~(2)~~ eggs are served for breakfast, a minimum of two ~~(2)~~ ounces of protein of good quality shall be served at each of the remaining meals.
- 5) One ~~(1)~~ cup cooked dried peas or beans or six ~~(6)~~ tablespoons of peanut butter, not more than twice a week and provided eggs, milk or lean meat are served at the same meal.



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## Section 300.2050(b) (continued)

6) Combinations of all above examples are acceptable, provided the minimum standard of six ~~(6)~~ ounces of a protein food of good quality is served daily and provided the combinations do not conflict with eye appeal or palatability.

c) Vegetable and Fruit Group: Four ~~(4)~~ or more one-half ~~(1/2)~~ cup servings of fruits ~~and/or~~ or vegetables. This shall include the following:

- 1)
  - A) One ~~(1)~~ serving of a good source of Vitamin C (grapefruit, grapefruit juice, orange, orange juice, cantaloupe, raw strawberries, broccoli, brussel sprouts, green peppers, sweet red pepper); or
  - B) Two ~~(2)~~ servings, one ~~(1)~~ cup, of a fair source of Vitamin C (raw cabbage, collards, kale, kohlrabi, mustard greens, potatoes, spinach, tomatoes, tomato juice, turnip greens).
- 2) One ~~(1)~~ serving of a good source of Vitamin A at least three ~~(3)~~ times weekly (apricots, broccoli, cantaloupe, carrots, chard, collards, kale, persimmon, pumpkin, spinach, sweet potato, turnip greens and other dark green leaves, winter squash).
- 3) Other Fruits or Vegetables including Potatoes.
- 4) To insure variety, any vegetable or fruit repeated for the day shall not be counted as one of the four ~~(4)~~ servings required in this group.
- d) Bread and Cereal Group: Four ~~(4)~~ or more servings of whole grain, enriched or restored. One ~~(1)~~ slice bread equals one ~~(1)~~ serving. One-half ~~(1/2)~~ cup cooked cereal or three-fourths ~~(3/4)~~ cup dry cereal equals one ~~(1)~~ serving.
- e) Butter or Margarine: Two ~~(2)~~ tablespoons or more to be used as a spread and in cooking.
- f) Other Foods: Serve other foods as necessary to round out meals, satisfy individual appetites, improve flavor, and meet the individual's nutritional and caloric needs. Snacks may also be used for this purpose.

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## Section 300.2050 (continued)

g) Meal Pattern: Foods for the day shall be planned to provide a variety of foods, variety in texture and good color balance to give "eye appeal" to the meal. The following meal patterns shall be used.

## 1) Three Meals A Day Plan

- A) Breakfast: Fruit or Juice, Cereal, Meat (optional, but three-four times per week preferable), Bread, Butter or Margarine, Milk, and Choice of additional Beverage.
- B) Main Meal (May be served noon or evening): Soup or Juice (optional), Entree (quality protein), Potato or potato substitute, Vegetable ~~and/or~~ or Salad, Dessert (Preferably fruit unless fruit is served as a salad or will be served at other meal ~~(Lunch or Supper)~~, Bread, Butter or Margarine, and Choice of Beverage.
- C) Lunch or Supper: Soup or Juice (optional), Entree (quality protein), Potato or potato substitute (Optional if served at main meal), Vegetable ~~and/or~~ or Salad, Dessert, Bread, Butter or Margarine, Milk, and Choice of additional Beverage.

## 2) Four Meals A Day Plan

- A) Breakfast (7:00 ~~or 7:00~~ A.M.): Juice, Cereal, Toast or Roll, Butter or Margarine, Milk, and Choice of additional Beverage.
- B) Brunch (10:00 ~~or 10:00~~ A.M.): Fruit or Juice; Main Dish (quality protein); Bread, Rolls or Special Breads [such as French Toast, Pancakes]; Butter or Margarine; and Choice of Beverage.
- C) Full Dinner (4:00 ~~or 4:00~~ P.M.): Appetizer or Soup Protein Entree, Potato or Potato Substitute, Vegetable, Salad, Dessert, Bread or Roll, Butter or Margarine, Milk, and Choice of additional Beverage.
- D) Evening Meal (7:00 ~~or 7:00~~ P.M.): Quality protein, Bread or Bread Substitute, Dessert, and Nourishing Beverage.
- 3) Five Meal-A-Day Plan
  - A) Continental Breakfast (7:00 ~~or 7:00~~ A.M.): Fruit Juice,

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## Section 300.2050(g)(3)(A) (continued)

Toast or Roll, Butter or Margarine, and Beverage.

- B) Brunch (10:00 ~~or 10:00~~ A.M.): Fruit or Juice, Cereal, Eggs ~~and/or~~ or Meat Dish, Bread or Muffin or Special Toast, Butter or Margarine, Milk, and Choice of additional Beverage.
- C) Midday Meal (1:00 ~~or 1:00~~ P.M.): Quality Protein, Bread or Bread Substitute, Butter or Margarine, Dessert, Nourishing Beverage, and Soup (optional).
- D) Dinner (4:00 ~~or 4:00~~ P.M.): Meat, Fish or Poultry; Potato or Potato Substitute; Vegetable; Salad; Bread or Roll; Butter or Margarine; Dessert; Milk; and Choice of additional Beverage.
- E) Evening Meal (7:00 ~~or 7:00~~ P.M.): Quality Protein, Bread or Bread Substitute, Dessert, and Nourishing Beverage.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2060 Therapeutic Diets

- a) The diet order (see Section 300.2040(b)) shall include, but is not limited to, the following information: name of resident, room ~~and/or~~ and bed number, type of diet, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department. ~~(C)~~
- b) Medically prescribed diets shall be recorded in the resident's medical record and served as ordered. The resident shall be observed to determine acceptance of the diet and these observations shall be recorded in his record. (B, ~~C~~)
- c) The kinds and variations of these prescribed therapeutic diets shall be available in the kitchen. If separate menus are not planned for each specific diet, diet information for each specific type shall be posted in the kitchen. ~~(C)~~
- d) All oral therapeutic diets, with the exception of liquid and medical soft diets, shall be reviewed at least every three months. Liquid diets shall be reviewed every ~~forty-eight (48)~~ hours; medical soft diets shall be reviewed every three ~~(3)~~ weeks. This review

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## Section 300.2060(d) (continued)

may be done by nursing personnel with recommendations to the attending physician. (B, ~~C~~)

- e) The facility shall have available, and in use, two ~~(2)~~ or more copies of a current diet manual approved by the Department. One copy shall be located in the kitchen for use by dietary personnel; other copies shall be located at each nurses' station for available use by the physician when prescribing diets. ~~(C)~~
- f) All special diets or dietary restrictions shall be medically prescribed and shall be planned or approved by a dietitian or nutritionist. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2070 Scheduling Meals

- a) A minimum of three ~~(3)~~ meals or their equivalent shall be served daily at regular times with no more than a ~~fourteen (14)~~ hour span between a substantial evening meal and breakfast. The ~~fourteen (14)~~ hour span shall not apply to facilities using the "four or five meal-a-day" plan, provided the evening meal is substantial and includes, but is not limited to, a good quality protein, bread or bread substitute, butter or margarine, a dessert and a nourishing beverage. (B, ~~C~~)
  - b) Between meals ~~and/or~~ or bedtime snacks of nourishing quality shall be offered. (B)
  - c) If a resident refuses food served, reasonable and nutritionally appropriate substitutes shall be served. (B, ~~C~~)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2080 Menu Planning

- a) Menus, including menus for "sack" lunches and between meal ~~and/or~~ or bedtime snacks, shall be planned at least one ~~(1)~~ week in advance. Food sufficient to meet the nutritional needs of all the residents shall be prepared for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value and shall be recorded on the original menu, or in a notebook marked "Substitutions" that is kept in the kitchen. If a notebook is used



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## Section 300.2080(a) (continued)

to document substitutions, it shall include the date of the substitution ~~(a)~~; the meal at which the substitution ~~(a)~~ was ~~(made)~~ made; the menu as originally written; and the menu as actually served. (B-~~G~~)

- b) The menu for the current week shall be dated and posted. Upon the request of the Department, sample menus shall be submitted for evaluation. ~~(G)~~
  - c) Menus shall be different for the same day of consecutive weeks. ~~(G)~~
  - d) All menus as actually served shall be kept on file for not less than ~~thirty~~ ~~(30)~~ days. ~~(G)~~
  - e) Supplies of staple foods for a minimum of a one ~~(1)~~ week period and of perishable foods for a minimum of a two ~~(2)~~ day period shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu. ~~(G)~~
  - f) Records of all food purchased shall be kept on file for not less than ~~thirty~~ ~~(30)~~ days. ~~(G)~~
- (Source: Amended at 13 Ill. Reg. ~~(G)~~, effective ~~(G)~~)

## Section 300.2090 Food Preparation and Service

- a) Foods shall be prepared by appropriate methods that will conserve their nutritive value, enhance their flavor and appearance. They shall be prepared according to standardized recipes and a file of such recipes shall be available for the cook's use. ~~(G)~~
- b) Foods shall be attractively served at the proper temperatures and in a form to meet individual needs. (B-~~G~~)
- c) All residents shall be served in a dining room or multi-purpose room except for an individual with a temporary illness, who is too ill, or for other valid reasons. ~~(G)~~

(Source: Amended at 13 Ill. Reg. ~~(G)~~, effective ~~(G)~~)

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## Section 300.2100 Food Handling Sanitation

Every facility shall comply with ~~the latest edition of~~ the Department's rules entitled "Food Service Sanitation" ~~rules~~ (77 Ill. Adm. Code 750).

(Source: Amended at 13 Ill. Reg. ~~(G)~~, effective ~~(G)~~)

## Section 300.2110 Kitchen Equipment, Utensils, and Supplies

The kitchen or dietary area shall be adequate to meet the food service needs. It shall have adequate equipment, utensils, and supplies to properly store, prepare, and serve the required number of meals in accordance with the ~~latest~~ ~~edition of the~~ Department's rules entitled "Food Service Sanitation" (77 Ill. Adm. Code 750). This shall include, but is not limited to, the following: (B-~~G~~)

- a) Each kitchen and floor pantry, or subkitchen, in each building shall be equipped with facilities to: maintain required food temperatures during storage, preparation and service; provide protection of cooking equipment and utensils from contamination; and prepare the planned meals. New or replacement equipment shall be of satisfactory institutional type based on generally accepted standards. ~~(G)~~
  - b) There shall be an adequate supply of food preparation equipment such as pots, pans, spoons, knives, and mixers ~~(etc.)~~, of the proper type to satisfactorily prepare the meals. ~~(G)~~
  - c) There shall be proper equipment to maintain food temperatures during service to residents. This equipment may be in the form of heated food carts, insulated food containers, or suitable equivalent. (B-~~G~~)
  - d) Each facility shall provide an adequate number of dishes, glassware, and silverware of a satisfactory type to serve all the residents in the facility at each meal. ~~(G)~~
- (Source: Amended at 13 Ill. Reg. ~~(G)~~, effective ~~(G)~~)
- SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

## Section 300.2210 Maintenance

- a) Every facility shall have an effective written plan for maintenance, including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: (B-~~G~~)

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## Section 300.2210(a) (continued)

## Section 300.2220 Housekeeping

- 1) Maintain the building in good repair and free of the following: cracks in floors, walls, or ceilings; peeling wallpaper or paint; warped or loose boards; warped, broken, loose, or cracked floor covering, such as tile or linoleum; loose handrails or railings; loose or broken window panes; and any other similar hazards. (B-~~7~~-G-)
  - 2) Maintain all electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems in safe, clean and functioning condition. This shall include regular inspections of these systems. (A, B-~~7~~-G-)
  - 3) Maintain all electrical cords and appliances in a safe and functioning condition. (B-~~7~~-G-)
  - 4) Maintain the interior and exterior finishes of the building as needed to keep it attractive and clean and safe. (Painting, washing, and other types of maintenance ~~etc.~~.) (G)-
  - 5) Maintain all furniture and furnishings in a clean, attractive, and safely repaired condition. (G)-
  - 6) Maintain the grounds and other buildings on the grounds in a safe, sanitary and presentable condition. (B-~~7~~-G-)
  - 7) Maintain the grounds free from refuse, litter, insect and rodent breeding areas. (G)-
  - 8) The building and grounds shall be kept free of any possible infestations of insects and rodents by eliminating sites of breeding and harborage inside and outside the building: eliminating sites of entry into the building with screens of not less than 16 mesh screen to the inch and repair of any breaks in construction. (B-~~7~~-G-)
- b)
- 1) Maintain all plumbing fixtures and piping in good repair and properly functioning. (B-~~7~~-G-)
  - 2) Protect the potable water supply from contamination by providing and properly installing adequate, backflow protection devices or providing adequate air gaps on all fixtures that may be subject to backflow or back siphonage.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

- a) Every facility shall have an effective plan for housekeeping including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: (B-~~7~~-G-)
  - 1) Keep the building in a clean, safe, and orderly condition. This includes all rooms, corridors, attics, basements, and storage areas. (B-~~7~~-G-)
  - 2) Keep floors clean, as nonslip as possible, and free from tripping hazards including throw or scatter rugs. (G)-
  - 3) Control odors within the housekeeping staff's areas of responsibility by effective cleaning procedures and by the proper use of ventilation systems. Deodorants shall not be used to cover up persistent odors caused by unsanitary conditions or poor housekeeping practices. (G)-
  - b) Attics, basements, stairways, and similar areas shall be kept free of accumulations of refuse, discarded furniture, old newspapers, boxes, discarded equipment, and other items. (B-~~7~~-G-)
  - c) Bathtubs, shower stalls, ~~and/or~~ and lavatories shall not be used for laundering, janitorial, or storage purposes. (G)-
  - d) All cleaning compounds, insecticides, and all other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms. (B-~~7~~-G-)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.2230 Laundry Services

- a) Every facility shall have an effective means of supplying an adequate amount of clean linen for operation, either thru an in-house laundry or a contract with an outside service.
- 1) An adequate supply of clean linen shall be defined as the three sets of sheets, draw sheets, pillow cases, etc. required to provide for the residents' needs. Additional changes of linen may be required in consideration of the time involved for laundering and transporting soiled linens. (G)-
- 2) If an in-house laundry service is provided then the following conditions shall exist:



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## Section 300.2230(a)(2) (continued)

- A) The laundry area shall be maintained and operated in a clean, safe and sanitary manner. ~~-(6)-~~
- B) Written operating procedures shall be developed, posted and implemented which provide for the handling, transport and storage of clean and soiled linens. ~~-(6)-~~
- C) Laundry personnel must be in good health and practice good personal grooming. Employees must thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean and after smoking, eating, drinking, using the toilet and handling soiled linens. ~~-(6)-~~
- D) Clean linen shall be protected from contamination during handling, transport and storage. ~~-(6)-~~
- E) Soiled linen shall be handled, transported and stored in a manner that protects facility residents and personnel. ~~-(6)-~~
- F) The laundry and its accessory storage and handling areas shall not be used as a storage area for supplies not directly connected with the operation of the laundry. ~~-(6)-~~

- b) If an outside laundry service is used it shall comply with the requirements of in-house laundries and, in addition, shall provide for protection of clean linens during transport back to the facility. ~~-(6)-~~
- c) If the facility provides laundry service for resident's personal clothing it must be handled, transported and stored in a manner that will not allow contamination of clean linen or allow contamination by soiled linen. ~~-(6)-~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

## Section 300.2410 Furnishings

- a) Each resident shall be provided with a separate bed suitable to meet

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## Section 300.2410(a) (continued)

the needs of the resident. Each bed shall be at least ~~thirty-six~~ ~~36~~ inches wide, have a headboard ~~and footboard~~, be of sturdy construction and in good repair. A double bed shall be provided for married couples, if they request this arrangement, and there are no medical contraindications. ~~-(6)-~~

- b) Each bed shall be provided with satisfactory type springs in good repair and a clean, firm, comfortable mattress of appropriate size for the bed. ~~-(6)-~~
- c) Each bedroom shall have window shades, or equivalent, in good repair. ~~-(6)-~~
- d) A satisfactory reading lamp, or equivalent, shall be provided for each bed. ~~-(6)-~~
- e)
  - 1) Each bed shall be provided with a minimum of one ~~-(1)-~~ clean, comfortable pillow. ~~-(6)-~~
  - 2) There shall be additional pillows available in the home to satisfactorily serve the needs of the residents. ~~-(6)-~~
- f) Each bedroom shall be provided with a mirror, unless there is a mirror in a bathroom opening into this bedroom. Each lavatory shall be provided with a mirror. ~~-(6)-~~
- g) Each living room for residents use shall be provided with an adequate number of reading lamps, tables, and chairs or settees. These furnishings shall be well constructed and of satisfactory design for the residents. ~~-(6)-~~
- h) Dining room furnishings shall be provided for each resident which are well constructed, comfortable, in good repair, and of satisfactory design for the residents. There shall be a sufficient number of tables, of a type that can be used by wheelchair residents, to accommodate all such residents in the facility. ~~-(6)-~~
- i) Office spaces, nurses' stations, treatment rooms, and other areas shall be satisfactorily furnished with desks, chairs, lamps, cabinets, benches, work tables, ~~and/or~~ and other furnishings essential to the proper use of the area. ~~-(6)-~~
- j) For each bed there shall be furnished:

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## Section 300.2410(j) (continued)

- 1) A minimum of two ~~(2)~~ adequately sized dresser drawers. ~~(c)~~
- 2) A comfortable chair. ~~(c)~~
- 3) An individual towel rack. ~~(c)~~
- 4) A satisfactory reading light over, or at the side of, the bed. ~~(c)~~
- 5) Adequate closet, locker, or wardrobe space for hanging clothing within the room. ~~(c)~~
- 6) A satisfactory bedside cabinet. ~~(c)~~
- k) A sufficient number of tables that can be either rolled over the resident's bed or that can be placed next to bed shall be provided to serve every resident who cannot, or does not, eat in a dining room or area. ~~(c)~~
- l) Provide proper storage in each resident's room, either within the bedside cabinet or in a separate cabinet, for individual equipment such as an emesis basin, bedpan, urinal, washbasin. Such storage need not be provided in the resident's room if it is satisfactorily provided in a connecting bath or toilet room. ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2420 Equipment and Supplies

- a) 1) The facility shall have a supply of thermometers, emesis basins, ice bags, hot water bottles or equivalent, bedpans, urinals, and sets of enema equipment, sufficient to meet the needs of its residents. ~~(B-1-G)~~
- 2) If the facility has residents who need the services of a suction machine, a sufficient quantity of such machines shall be provided to meet the needs of all such residents. ~~(B-1-G)~~
- b) 1) There shall be at least one ~~(1)~~ bedside screen available in the facility for each ~~fifty (50)~~ beds or major fraction thereof in multiple bedrooms to provide residents' privacy when needed. ~~(c)~~

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## Section 300.2420(b) (continued)

- 2) There shall be cubicle curtains to provide privacy to each resident in multiple bedrooms. If cubicle curtains are not provided an adequate supply of bedside screens shall be provided for the same purpose.
- c) There shall be a sufficient supply of linen and bedding in good condition to provide proper care and comfort to the residents. ~~(B-1-G)~~
- d) There shall be a first-aid kit or emergency box in every facility. This shall contain bandages, sterile gauze dressing, bandage scissors, tape, sling, burn ointment, and other equipment deemed necessary by the advisory physician or the medical advisory committee.
- e) Activity program supplies shall be provided to maintain an ongoing program to meet the varied interests and needs of the residents. These shall include, but are not limited to, games, craft supplies, current magazines, books, radio, television, and record player. A piano or organ is recommended as an important adjunct to the activity program equipment. ~~(c)~~
- f) Dishes and kitchen equipment shall be provided as set forth in Section 300.2100. ~~(c)~~
- g) Cleaning equipment and supplies shall be provided as set forth in Sections 300.2210 through 300.2220. ~~(c)~~
- h) Each resident shall have a satisfactory nurse call device. (See Section 300.2940(g) and 300.3140(e).)
- i) There shall be special equipment, implements, or utensils provided to residents as needed to assist them when eating. ~~(B-1-G)~~
- j) There shall be a sufficient quantity of resident care equipment of satisfactory design and in good condition to carry out established resident care procedures. This shall include at a minimum the following: wheelchairs with brakes, walkers, metal bedside rails, bedpans, urinals, emesis basins, wash basins, footstools, metal commodes, over the lap tables, foot cradles, footboards, under the mattress bed boards, trapeze frames, transfer boards, parallel bars, and reciprocal pulleys. ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



Section 300.2430 Sterilization of Equipment and Supplies

Section 300.2430 Sterilization of Equipment and Supplies

- a) Every facility shall follow an acceptable plan to provide for sterile equipment and supplies, such as needles, syringes, catheters, and dressing. There shall be an autoclave available for sterilizing this type of equipment and supplies. The autoclave should be located in a central sterilization area, or clean utility area. It may be located at the nurses' station. An autoclave will not be required in a facility when other acceptable arrangements have been made, such as: (A, B, C)

1) Use of individually wrapped sterile dressings, disposable syringes, needles, catheters, and gloves ~~etc.~~ which shall be disposed of after a single use.

2) Formal plan with another facility for the autoclaving of equipment and supplies.

3) Other alternative methods when approved on an individual basis in writing from the Department based on a written request from the facility giving in detail the method proposed to be used and which method meets equivalent criteria for proper sterilization for these items to be sterilized.

- b) Every facility shall sanitize bed pans, urinals, wash basins, emesis basins, enema equipment, and similar patient ~~type nursing~~ care utensils as follows:

1) Individual bed pans, urinals, wash basins, and similar equipment shall be washed and rinsed after each use, and be sanitized at least weekly ~~periodically while the patient is in the facility~~. If individual equipment is not provided, the equipment shall be washed, rinsed, and sanitized after each use. (B)

2) Utensils shall be pre-flushed prior to washing. Utensils shall be washed in a hot detergent solution that is maintained clean. After washing, utensils shall be rinsed free of detergents with clean water.

3) Utensils shall be sanitized, either mechanically or manually, through the use of steam, hot water, or chemicals approved by the U.S. Environmental Protection Agency and formulated for the sanitization of patient care utensils. Chemical sanitizers shall be used in accordance with label instructions ~~in a utensil sanitizer~~.

Section 300.2430(h) (continued)

- 4) Patient care utensil sanitization shall be completed ~~this procedure shall be done~~ in the ~~a~~ soiled utility room. (B)
- 3) ~~Sanitization may be approved other than in a utensil sterilizer. Such approval shall be on an individual basis in writing from the Department based on a written request from the facility giving in detail the method proposed to be used and which method meets equivalent criteria for proper sanitization of the items to be sanitized.~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section 300.2610 Codes

Water supply, sewage disposal and plumbing systems shall comply with all applicable State and local codes and ordinances. (B, G)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 300.2620 Water Supply

- a) Each facility shall be served by water from a municipal public water supply when available. (B, G)

b) When a municipal public water supply is not available, the water supply shall comply with the Department's rules entitled "Rules for Drinking Water Systems," (77 Ill. Adm. Code 900) ~~as amended~~. (B, G)

- c) ~~1)~~ If water is supplied by a well that is not part of a municipal system, the well shall be constructed and maintained in accordance with the Department's rules entitled "Illinois Water Well Construction Code" (77 Ill. Adm. Code 920) and "Water Well Pump Installation Code" (77 Ill. Adm. Code 925).

- d) ~~2)~~ Each facility shall have a written agreement with a water company, dairy, or other water purveyor to provide an emergency supply of potable water for drinking and culinary purposes.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.2630 Sewage Disposal

- a) All sewage and liquid wastes shall be discharged into a public sewage system when available. (B-~~7~~-C-)
- b) When a public sewage system is not available, sewage and liquid wastes shall be collected, treated, and disposed of in a private sewage disposal system. The design, construction, maintenance, and operation of the system shall comply with the Department's rules entitled "Private Sewage Disposal ~~licensing Act and~~ Code" (77 Ill. Adm. Code 905) ~~as amended~~. (B-~~7~~-C-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.2640 Plumbing

Each plumbing system shall comply with the Department's rules entitled "Illinois ~~State~~ Plumbing Code" (77 Ill. Adm. Code 890) ~~and the rules and regulations promulgated thereunder~~ effective at the time of construction ~~and/or~~ or approved acceptance by the Department. (C-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS  
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

## Section 300.2810 Applicability of these Standards

- a) 1) These standards shall apply to all new Long-Term Care Facilities and major alterations and additions to existing Long-Term Care Facilities. (Major alterations are those that are not defined as minor alterations in subsection (f) of this Section herein.) Long-Term Care Facilities contemplating construction shall contact the Health Facilities Planning Board for information concerning the current requirements.
- 2) Projects for which working drawings and specifications have received final approval by the Department prior to the promulgation of these Standards will only be required to meet those Standards that were in effect at the time that the final approval was given.
- b) When construction is contemplated, either for new buildings or additions or major alterations to existing buildings coming within

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## Section 300.2810(b) (continued)

- the scope of these standards, design development drawings and outline specifications shall be submitted to the Department for review. Approval of design development drawings and specifications shall be obtained from the Department prior to starting final working drawings and specifications. Such approval will be based upon compliance with Section 300.2830. Comments or approval will be provided within ~~thirty (30)~~ days of receipt by the Department. (G-)
- c) The final working drawings and specifications shall be submitted to the Department for review and approval prior to beginning of construction. For final approval to remain valid, contracts must be signed within one ~~(1)~~ year of the date of final approval. Alternate methods of design development and construction such as fast track shall be acceptable if equivalency can be proved. Comments of approval will be provided within ~~thirty (30)~~ days of receipt by the Department. (G-)
- d) Any contract modifications which affect or change the function, design, or purpose of a facility shall be submitted to the Department for approval prior to authorizing the modifications. Such approval will be based upon compliance with Section 300.2830. Comments or approval will be provided within ~~thirty (30)~~ days of receipt by the Department. (G-)
- e) The Department shall be notified at least ~~thirty (30)~~ days before construction has been completed. The Department will then complete a final inspection. Deficiencies noted during the final inspection must be completed before occupancy will be allowed. (G-)
- f) Minor alterations or remodeling changes which do not affect the structural integrity of the building, which do not change functional operation, which do not affect fire safety, and which do not add beds or facilities over those for which the Long-Term Care Facility is licensed need not be submitted for drawing approval. However, the Health Facilities Planning Board requirements must be met for all alterations and remodeling projects. (G-)
- g) No system of water supply, plumbing, sewage, garbage or refuse disposal shall be installed, nor any such existing system materially altered or extended until complete plans and specifications for the installation, alteration or extension have been submitted to the Department and have been reviewed and approved. Such approval will be based upon compliance with Section 300.2820. (G-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)



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## Section 300.2920 Codes and Standards

- a) Each facility shall comply with the applicable provisions of the following codes and standards. Any incorporation by reference in this Section of the rules or regulations of any Agency of the United States or of any standards of a nationally recognized organization or association includes no new amendments or editions made after the date specified. (A, B, ~~C~~)

- i) State of Illinois Rules ~~Codes and Standards~~  
~~Code of Standards Agency~~
- A) Illinois ~~Ill.~~ Plumbing Code ~~(1983)~~ (77 Ill. Adm. Code 990), Department of Public Health ~~(1984) Environmental Health Protection~~
- B) Illinois Accessibility Code ~~Standards Illustrated (as amended March 1981)~~ (71 Ill. Adm. Code 400), Capital Development Board
- C) Fire Prevention and Safety ~~1983~~ (41 Ill. Adm. Code 100), Office of the State Fire Marshal
- D) Food Service Sanitation ~~1983~~ (77 Ill. Adm. Code 750), Department of Public Health ~~Environmental Health Protection~~
- E) ~~Boiler and Pressure Vessel Safety Act (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 3201 et seq.) and Boiler and Pressure Vessel Safety Code Rules and Regulations 1984~~ (41 Ill. Adm. Code 120), Office of the State Fire Marshal
- ~~F) State of Illinois Safety Glazing Materials Act, (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 3101 et seq.)~~
- 2) Other Codes and References ~~Codes or Standards Agency~~
- A) National Fire Protection Association  
~~National Fire Protection Association~~
- i) NFPA 701 Life Safety Code 1981 Edition (New Health Care Occupancies) and all appropriate references under Appendix "B", including but not limited to:
- ii) NFPA 10 1978, Standard for Portable Extinguishers

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## Section 300.2820(a)(2)(A) (continued)

- iii) NFPA 13 1980, Standards for the Installation of Sprinkler Systems
- iv) NFPA 56F 1977, Standard for Non-Flammable Medical Gas Systems
- v) NFPA 70 1981, National Electric Code
- vi) NFPA 90A 1978, Standard for the Installation of Air Conditioning and Ventilating Systems
- vii) NFPA 96 1980, Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment
- viii) NFPA 220 1979, Standard Types of Building Construction
- ix) NFPA 253 1978, Flooring Radiant Heat Energy Test
- x) NFPA 255 1972, Test of Surface Burning Characteristics of Building Materials
- B) Underwriters' Laboratory, Inc. (UL)  
~~Underwriters' Laboratories, Inc.~~
- i) Fire Resistance Index (date) (All Editions)
- ii) Building Material Directory (All Editions)
- iii) Standard No. 181-1974 Factory Made Air Duct Materials and Air Duct Connectors
- C) American Society for Testing and Materials (ASTM)  
~~American Society for Testing and Materials~~
- i) Standard No. E-84-1977A, Method of Test for Surface Burning Characteristics of Building Materials (Same as NFPA 255)
- ii) Standard No. E90-1975, Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions
- D) American Society of Heating, Refrigerating and Air

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## Section 300.2820(a)(2)(D) (continued)

Conditioning ~~American Society of Heating, Refrigerating, and Air Conditioning~~

- i) Handbook of Fundamentals, 1977
- ii) Standard No. 52-76 Methods of Testing Air Cleaning Devices Used in General Ventilation for Removing Particulate Matters
- E) Uniform Building Code (1982 Edition), International Conference of Building Officials
- F) Standard No. A117.1-R1971, Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, American National Standards Institute
- G) Standard No. A17.1-1971, National Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Stairs, American National Standards Institute
- H) Pamphlet P-2.1-1976, Standard for Medical/Surgical Vacuum Systems in Hospitals, Compressed Gas Association

~~I) Public Health Service  
Publication No. 934  
Food Service  
Sanitation Manual~~  
Superintendent of Documents, U.S. Government Printing Office

- ~~I) J)~~ HUD FT-TS-24, A Guide to Air Borne, Impace and Structure Borne Noise-Control in Multi-Family Dwellings, Superintendent of Documents, U.S. Government Printing Office
- b) In addition to compliance with the Standards set forth in this Section ~~herein~~, all building codes, ordinances and regulations which are enforced by City, County or other local jurisdictions in which the facility is, or will be located must be observed. (A, B, ~~C~~)
- c) Where no local building code exists, the recommendations of the 1976 Edition of the Uniform Building Code shall apply. ~~(C)~~
- d) The local building code or the recommendations of the 1982 Edition of the Uniform Building Code shall apply insofar as such recommendations are not in conflict with these standards set forth in these

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## Section 300.2820(d) (continued)

regulations, or with the National Fire Protection Association Code 101, Life Safety Code, 1981. ~~(C)~~

- e) The Fire Safety Evaluation System for Health Occupancies (Appendix C) of the 1981 edition of the Life Safety Code (NFPA 101) shall be used by the Department in determining whether any facility's proposed equivalent system is safe and does not constitute a hazard to the life and safety of the staff and residents. In making its determination regarding the proposed equivalent system, the Department shall consider those factors listed in Appendix C.
- f) Pursuant to the Medicare-Medicaid certification requirements of 42 CFR 405.1134 (a) (1983) and 42 CFR 442.321(c) (1983), any skilled nursing facility that on December 4, 1980 or on November 26, 1982, or any intermediate care facility that on November 26, 1982 complied with the requirements of the 1967 or 1973 edition of the Life Safety Code will be considered to be in compliance with Section 300.2820 (a)(2)(A)(i), as long as the facility continues to remain in compliance with that edition of the Code.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2830 Preparation of Drawings and Specifications

- a) The preparation of drawings and specifications shall be executed by or be under the immediate supervision of an architect registered in the State of Illinois: ~~(C)~~
- b) The first submission shall be the design development drawings indicating in detail the assignment of all spaces, size or areas and rooms, and indicating in outline, the fixed and movable equipment and furniture, and the outline specifications. ~~(C)~~
- c) The plans shall be drawn at a scale sufficiently large to clearly present the proposed design. ~~(C)~~
- d) The drawings shall include: ~~(C)~~
  - 1) a plan of each floor including the basement or ground floor,
  - 2) roof plan,
  - 3) plot plan showing roads, parking areas, and sidewalks, ~~etc., etc.~~



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## Section 300.2830(d) (continued)

- 4) elevations of all facades,
  - 5) sections through the building,
  - 6) identification of all fire and smoke compartmentation.
- e) Outline specifications shall provide a general description of the construction including finishes; acoustical material, floor covering; heating and ventilating systems; description of the electrical system including the emergency electrical system and the type of elevators.
- f) The total gross floor area and bed count shall be shown on the drawings.
- g) A brief narrative of the proposed program shall be submitted with the preliminary drawings and outline specifications. ~~(c)~~
- h) Following approval of the design development drawings and the outline specifications, working drawings and specifications shall be submitted. All working drawings shall be well prepared and clean and distinct prints shall be submitted. Drawings shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. Working drawings shall be complete and adequate for contract purposes. Drawings shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Plumbing. ~~(c)~~

## 1) The architectural drawings shall show:

- A) Site plan showing all topography, newly established levels and grades, existing structures on the site (if any), new buildings and structures, roadways, walks, and the extent of the areas to be landscaped. All structures which are to be removed under the construction contract shall be shown. ~~(c)~~
- B) Plan of each floor and roof. ~~(c)~~
- C) Elevation of each facade. ~~(c)~~
- D) Sections through building. ~~(c)~~
- E) Elevators and dumbwaiters drawings delineating shaft details and dimensions, sizes of cab platforms and doors, travel distances including elevation height of landings,

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## Section 300.2830(h)(1)(E) (continued)

- pit sizes, and machine rooms. ~~(c)~~
- F) Kitchen, laundry, clean and soiled utility room, special care areas, and similar areas detailed at a scale to show the locations, type, size and connection of all fixed and movable equipment. ~~(c)~~
- G) Scale details as necessary at a scale sufficiently large to properly indicate details of the work. ~~(c)~~
- H) Schedule of finishes. ~~(c)~~
- 2) The structural drawings shall show:
- A) Plans of foundations, floors, roofs and all intermediate levels shall show the complete design with sizes, sections, and the relative location of the various members including: ~~(c)~~
  - B) Schedule of beams, girders and columns. ~~(c)~~
  - C) Notes on design data including the name of the governing building code, values of allowable unit stresses, assumed live loads, wind loads, earthquake load, and soil bearing pressures. ~~(c)~~
  - D) Details of special connections, openings, pipe sleeves and expansion joints. ~~(c)~~
  - E) Special structures shall include calculations defining load assumption, shear and moment diagrams and horizontal and vertical reactions. ~~(c)~~
- 3) Mechanical drawings with specifications shall show the complete heating, cooling and ventilation systems; plumbing, drainage, stand pipe, and sprinkler systems. ~~(c)~~
- A) Heating, Cooling and Ventilation.
    - i) Pumps, tanks, boilers and piping and boiler room accessories.
    - ii) Air conditioning systems with required equipment, water and refrigerant piping, and ducts. ~~(c)~~

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## Section 300.2830(h)(3)(A) (continued)

- iii) Supply and exhaust ventilating systems with connections and piping. ~~-(c)-~~
- iv) Air quantities for all rooms including supply and exhaust ventilating duct openings.
- B) Plumbing, Drainage and Stand Pipe Systems.
  - i) Size and elevation of: street sewer, house sewer, house drains, street water main and water service into the building. ~~-(c)-~~
  - ii) Location and size of soil, waste, and vent stacks with connections to house drains, cleanouts, fixtures and equipment. ~~-(c)-~~
  - iii) Size and location of hot, cold and circulating mains, branches, and risers from the service entrance, and tanks. ~~-(c)-~~
  - iv) Riser diagram of all plumbing stacks with vents, water risers and fixture connections. ~~-(c)-~~
  - v) Gas, oxygen and similar piped systems.
  - vi) Stand pipe and sprinkler systems.
  - vii) All fixtures and equipment that require water and drain connections. ~~-(c)-~~

4) Electrical drawings shall show all electrical wiring, outlets, and equipment which require electrical connections.

- A) Electrical service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections. ~~-(c)-~~
- B) Location of main switchboard, power panels, light panels and equipment. Feeder and conduit sizes shall be shown with schedule of feeder breakers or switches. ~~-(c)-~~
- C) Light outlets, receptacles, switches, power outlets, and circuits. ~~-(c)-~~
- D) Telephone layout showing service entrance, telephone

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## Section 300.2830(h)(4)(D) (continued)

switchboard, strip boxes, telephone outlets and branch conduits as approved by the telephone company. Where public telephones are used for inter-communication, provide separate room and conduits for racks and automatic switching equipment as required by the telephone company. ~~-(c)-~~

- E) Nurses' call systems with outlets for beds, duty stations, corridor signal lights, annunciators and wiring diagrams. ~~-(c)-~~
- F) Fire alarm system with stations, signal devices, control board and wiring diagrams. ~~-(c)-~~
- G) Emergency electrical system with outlets, transfer switch, source of supply, feeders, and circuits. ~~-(c)-~~
- H) All other electrically operated systems and equipment. ~~-(c)-~~

5) When the project is an addition, details and information on the existing building shall be provided as follows:

- A) Type of activities within the existing building and distribution of existing beds, ~~etc.~~, ~~-(c)-~~
- B) Type of construction of existing building and number of stories in height. ~~-(c)-~~
- C) Plans and details showing attachment of new construction to the existing structure. ~~-(c)-~~
- D) Mechanical and Electrical systems showing connections to the existing system. ~~-(c)-~~
- E) The Department may require submission of drawings of all or any part of the existing structure, depending upon the extent of the modification. ~~-(c)-~~

6) Specifications shall supplement the drawings and shall: Describe, except where fully indicated and described on the drawings, the materials, workmanship, kind, sizes, capacities, finishes, and other characteristics of all materials, products, articles and devices.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)



## Section 300.2840 Site

- a) The facility shall be located on a reasonably flat or rolling, well drained site that is not subject to flooding; reasonably free from sources of excessive noise, noxious or hazardous smoke or fumes; not in deteriorated, unpleasant, or potentially hazardous area; and not near uncontrolled sources of insect and rodent breeding. ~~(C)~~
- b) The facility shall be located so that the building or buildings can comply with all applicable local zoning ordinances, building restrictions and fire safety requirements. The Department may have additional requirements if the proposed locations of the building or buildings on the site would result in a hazard to or be detrimental to the health, welfare, or safety of the residents in the facility. These additional requirements shall include, but are not limited to fences, stairs, and other types of barriers to prevent residents from injury. ~~(C)~~
- c) The facility shall be served by a potable water supply with water pressure and volume that is acceptable to the Department. ~~(B)(C)~~
- d) The distance from the fire station, the accessibility of the facility, and capability of the fire department must be approved in writing by the Office of the State Fire Marshal. ~~(B)(C)~~
- e) The facility shall have at least one ~~(1)~~ municipal or private fire hydrant, located within ~~three hundred~~ ~~(300)~~ feet of every point on the perimeter of the building and satisfactory for use by the equipment of the fire department serving the building, or have an acceptable equivalent. Additional hydrants may be required if needed to properly protect the residents from fire hazards. Evaluation and written approval must be obtained from the Office of the State Fire Marshal. ~~(B)(C)~~
- f) Plans showing the proposed building location must be submitted to the Illinois Department of Transportation, Division of Water Resources to determine compliance with the State Flood Plain Regulations and Executive Order IV, 1979. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2850 Administration and Public Areas

- a) Facilities for the physically handicapped (public, staff and residents) shall be provided in administration and public areas as well as in resident areas. ~~(C)~~

## Section 300.2850 (continued)

- b) Lobby shall include a reception and information counter or desk, waiting space ~~(C)~~, and public telephones. See Illinois State Plumbing Code for drinking fountains ~~(C)~~ and toilet facilities requirements for staff and visitors. ~~(C)~~
- c) General or Individual Office ~~(C)~~ shall have sufficient space to accommodate the following functions: Administrative, Business/Financial Transactions, Professional Staff (Director of Nursing, Food Service Supervisor, Activity Director, Social Service Director ~~(etc.)~~), and Professional Consultants (Medical Director, Pharmacist, Dietitian, Social Worker ~~(etc.)~~) ~~(C)~~
- d) Multipurpose room ~~(C)~~ shall be provided for conferences, meetings, interviews, and educational purposes. ~~(C)~~
- e) Provide adequate space for recording, reviewing and storing resident records. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2860 Nursing Unit

- a) The number of resident beds in a nursing unit shall not exceed ~~seventy-five~~ ~~(75)~~ beds. ~~(C)~~
  - 1) Not less than ~~sixty~~ ~~(60)~~ percent of the resident beds shall be in one ~~(1)~~ or two ~~(2)~~ bed rooms. ~~(C)~~
  - 2) Not less than three ~~three~~ ~~(3)~~ percent of the total number of the beds in the facility shall be located in single bed rooms with a private bath, water closet and lavatory. ~~(C)~~

b) ~~Bedrooms~~ General Requirements for Bedrooms

- 1) Resident bedrooms shall have an entrance directly off a corridor with an entrance door which swings into the room. ~~(C)~~
- 2) Resident bedrooms shall have adequate and satisfactory artificial light and be equipped in accordance with Section 300.2940(a)2 and (e)1). ~~(C)~~
- 3) Residents shall have access to a toilet room without entering the general corridor area. ~~(C)~~

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## Section 300.2860(b) (continued)

- 4) Provide a closet or wardrobe of at least four ~~(4)~~ square feet for each resident. ~~(C)~~
- 5) Residents bedroom floor shall be at or above grade level. ~~(C)~~
- 6) Each room used as a resident bedroom shall have at least one ~~(1)~~ outside window, and a total window area to the outside equal to at least one-tenth ~~(1/10)~~ the floor area of the room. ~~(C)~~
- 7) Nurses' call system shall be provided in accordance with Section 300.2940(g). ~~(B-C)~~
- 8) Complete visual privacy shall be provided for each resident in multibed rooms. Design for privacy shall not restrict resident access to the entry, lavatory, nor toilet. ~~(C)~~
- 9) No resident bedroom shall be located more than ~~one hundred~~ ~~twenty~~ ~~(120)~~ feet from the nurses' station, clean utility room, and soiled utility room. ~~(C)~~

## c) Resident Bedrooms

- 1) Single resident bedrooms shall contain at least ~~one hundred~~ ~~(100)~~ square feet. Multiple resident bedrooms shall contain at least ~~eighty~~ ~~(80)~~ square feet per bed. Minimum usable floor area shall be exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, vestibules, or clearly definable entryways. ~~(C)~~
- 2) Multiple resident bedrooms shall not have more than four ~~(4)~~ beds nor more than three ~~(3)~~ beds deep from an outside wall. All beds shall have a minimum clearance of three ~~(3)~~ feet at the foot and sides of the bed. ~~(C)~~

## d) Special Care Room

- 1) Provide a special care room for each nursing unit. ~~(C)~~
- 2) Provide this room with a private toilet room containing water closet, lavatory, bathtub or shower and all other necessary facilities to meet the resident's needs. ~~(B-C)~~
- 3) This room shall be located to allow direct visual supervision

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## Section 300.2860(d)(3) (continued)

- from the nurses' station. ~~(C)~~
- 4) This room shall be included in the authorized maximum bed capacity for the facility. ~~(C)~~
- 5) It is permissible for the room to be occupied by a resident, not in need of special care, provided the resident is clearly informed and understands ~~before~~ they will be immediately transferred out of the room any time of day or night, whenever the room is needed to care for a resident requiring special care. ~~(C)~~

e) Nurses' Station ~~(B-C)~~

- 1) Provide a minimum of one ~~(1)~~ nursing station per unit with direct access to the corridor for each nursing unit. The location of this station shall allow visual control without the use of mirrors of each resident sleeping corridor. Separation shall be provided from the utility rooms.
- 2) One or more nursing units may be combined at a central nursing station if sufficient space is provided for all nursing functions.
- 3) A lounge with toilet room shall be provided near each station for nursing staff. Lockers for safekeeping of coats and personal effects may be provided within this space or in a convenient central location.

## f) Bath and Toilet Rooms

- 1) The resident bedroom toilet room shall serve no more than two ~~(2)~~ resident rooms nor more than eight ~~(8)~~ beds. The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from the toilet room when the resident room contains a lavatory. ~~(C)~~
- 2) Provide one ~~(1)~~ wheelchair resident toilet room for each sex residing in nursing unit. The room shall be accessible from the corridor. This room shall contain a water closet and lavatory. ~~(C)~~
- 3) Wheelchair resident toilet room ~~(s)~~ are not required when all resident toilet rooms can accommodate wheelchair residents. ~~(C)~~



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## Section 300.2860(f) (continued)

## Section 300.2860(g)(3) (continued)

- 4) Provide one ~~(1)~~ training toilet room on each nursing floor, that is accessible from the corridor. Provide three ~~(3)~~ foot clearance at the front and both sides of the water closet. This room shall contain a lavatory accessible for wheelchair use. ~~(C)~~
- 5) Provide one ~~(1)~~ bathtub or shower for each ten ~~(10)~~ resident beds per nursing unit which are not served by bathing or showering facilities in resident room. ~~(C)~~
- 6) All shower stalls for residents not needing assistance shall be at least three ~~(3)~~ feet square and shall have no curb. ~~(C)~~
- 7) Provide at least one ~~(1)~~ bathtub for assisted bathing per nursing unit. There shall be a clear area at least three ~~(3)~~ feet wide at both sides and one end of the tub. ~~(C)~~
- 8) Provide at least one ~~(1)~~ shower stall for assisted showering per nursing unit. The shower stall shall be at least four ~~(4)~~ feet square with no curb. ~~(C)~~
- 9) Provide a toilet room with a water closet and lavatory, accessible to the assisted bathtub and shower without entering the general corridor. This room may be arranged to serve as the training toilet facility. ~~(C)~~
- 10) Grouped bathing and toilet facilities shall be partitioned or curtained for privacy. ~~(C)~~
- g) Utility Rooms
  - 1) Clean utility room shall have direct access to a corridor or access may be through the nurses' station entrance. This room shall contain work counters, single or double compartment sink with integral drainboard, storage cabinets, and an autoclave. (Autoclave may be waived in lieu of other methods if sterilization is approved by Department.) ~~(C)~~
  - 2) Clean linen storage room or closet within the clean utility room shall be provided. If a closed cart system is used, storage may be in an alcove. ~~(C)~~
  - 3) Soiled utility room shall have direct access to a corridor. This room shall contain work counters, double compartment sink with integral drainboard, storage cabinets, and a clinical rim

- Flush sink ~~and sanitizer~~ (See Section 300.2930). ~~(C)~~
- 4) The charging room for a linen chute shall be large enough to unload the collecting cart with the door closed. ~~(C)~~

- h)
  - 1) Medicine station shall be provided for convenient and prompt ~~twenty-four (24) hour~~ distribution of medicine to residents. The medicine preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. Provision for handwashing and medication purposes shall be provided in medication preparation room. ~~(C)~~
  - 2) If medicine dispensing carts are used, a specific space shall be provided which may be located in the nurses' station or in an alcove or other space under the direct control of the nursing staff. Provision for handwashing and medication purposes shall be provided in the nurses' station. ~~(C)~~
- i) Nourishment station shall be provided with a handwashing sink and equipment including refrigerator, and storage cabinets for serving nourishment between scheduled meals. Ice for residents' use shall be provided only by icemaker dispenser units. ~~(C)~~
- j) Room for examination and treatment of residents shall be provided and shall have a minimum floor area of ~~one hundred (100)~~ square feet, excluding space for vestibule, closets and work counters (whether fixed or movable). The minimum room dimension shall be ten feet ~~(10-0)~~. The room shall contain a lavatory or sink equipped for handwashing; a work counter; storage facilities; and a desk, counter, or shelf space for writing. ~~(C)~~
- k) Equipment storage room ~~(s)~~ shall be provided for storage of equipment such as I.V. stands, inhalators, air mattresses, walkers, and wheelchairs ~~and etc.~~ ~~(C)~~
- l) Parking space for wheelchairs shall be provided and located out of path of normal traffic. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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Section 300.2870 Dining, Living, Activities Rooms ~~(s)~~

- a) The combined area of these rooms shall not be less than ~~twenty-five~~ ~~(25)~~ square feet per resident bed. ~~(c)~~
  - b) Provide a minimum of one ~~(1)~~ dining room with at least ten ~~(10)~~ square feet per resident bed. Provide facilities to allow individual feeding of residents on their sleeping floor if they are not able to feed themselves. Dining area provided for this function may be included in the required area. ~~(c)~~
  - c) Provide a minimum of one ~~(1)~~ comfortably furnished living room on each floor in multiple story buildings having a total window area of at least one-tenth ~~(1/10)~~ the floor area. ~~(c)~~
  - d) Provide activities room based on program requirements. This room ~~(s)~~ may be combined with the living ~~and/or~~ or dining room. ~~(c)~~
  - e) Locate these rooms so that they are not an entrance vestibule from the outside. ~~(c)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.2880 Therapy and Personal Care

- a) Physical and occupational therapy facilities shall be provided as may be required by Section 300.1420. ~~(c)~~
- b) A separate room shall be provided with appropriate equipment for hair care and grooming needs of the residents. ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.2890 Service Departments

- a) Dietary facilities shall comply with the Department's rules entitled ~~standards specified in the State of Illinois Rules and Regulations for "Food Service Sanitation" (77 Ill. Adm. Code 750) and the Food Service Sanitation Manual, Public Health Service No. 934.~~ Food service facilities shall be designed and equipped to meet the requirements of the Narrative Program. These may consist of an on-site conventional food preparing system, a convenience food service system, or an appropriate combination of the two. (B ~~(c)~~)

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## Section 300.2890 (continued)

- b) The kitchen, consisting of food preparation, cooking and serving areas, shall be approximately ten ~~(10)~~ square feet per resident bed with a minimum area of at least ~~two hundred (200)~~ square feet. It shall be properly located for efficient food service, and be large enough to accommodate the equipment and personnel needed to prepare and serve the number of meals required. (B ~~(c)~~)
- c) The following facilities shall be provided as required to implement the type of food service selected:
  - 1) A control station shall be provided for receiving food supplies. ~~(c)~~
  - 2) Storage space shall be adequate to provide normal and emergency supply needs, approximately two and one half ~~(2 1/2)~~ square feet per patient bed, for bulk and daily food storage, located in a room convenient to the kitchen. ~~(c)~~
  - 3) Food Preparation Facilities Conventional food preparation systems require space and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, and individual packaged portions, or systems using contractual commissary service require space and equipment for thawing, portioning, heating, cooking, or baking. ~~(c)~~
  - 4) Handwashing facilities ~~facility(ies)~~ shall be located in the food preparation area. ~~(c)~~
  - 5) Residents' meal service facilities shall be provided as required for tray assembly and distribution. ~~(c)~~
  - 6) Warewashing space shall be located in a room or an alcove separate from food preparation and serving areas. Commercial type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting, stacking and loading soiled tableware and for transferring clean tableware to the using areas. A handwashing lavatory shall be provided. (B ~~(c)~~)
  - 7) Potwashing facilities shall be located conveniently for washing and sanitizing cooking utensils. (B ~~(c)~~)
  - 8) Storage areas shall be provided for cans, carts, and mobile tray conveyors. ~~(c)~~



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## Section 300.2890(c) (continued)

- 9) Waste storage facilities shall be located in a separate room easily accessible to the outside for direct pickup or disposal. ~~(C)~~
- 10) An office ~~office~~ or desk ~~space~~ ~~spaces~~ shall be provided for the dietitian ~~and for~~ ~~or the~~ dietary service manager. ~~(C)~~
- 11) Toilets shall be accessible to the dietary staff. Handwashing facilities shall be immediately available. ~~(C)~~
- 12) A janitors' closet for the exclusive use of the food preparation areas shall be located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. ~~(C)~~
- 13) Self-dispensing icemaking facilities shall be provided. ~~(C)~~
- 14) Provide adequate can, cart and mobile tray washing facilities as required. ~~(C)~~

## d) Linen Service

- 1) Provide a laundry room with commercial type equipment designed to meet the needs of the facility unless a commercial laundry service is used. ~~(C)~~
- 2) The laundry facilities shall be designed to provide for the processing of linens from soiled linen receiving/sorting through washing, through drying, through clean linen inspection, folding and storage, maintaining a separation between soiled and clean functions. ~~(C)~~
- 3) Provide for the storage of laundry supplies and carts. ~~(C)~~
- 4) If washers and dryers are provided for personal use of residents, they shall be located in a room separate from the facility's laundry room. ~~(C)~~

## e) Housekeeping and Storage

- 1) Sufficient janitor's closets shall be provided throughout the facility as required to maintain a clean and sanitary environment. Each shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. Space ~~for~~ for large housekeeping equipment and for back-up

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## Section 300.2890(e)(1) (continued)

supplies may be centrally located. ~~(C)~~

- 2) Provide a total area of approximately ten ~~(10)~~ square feet per resident bed for the storage areas designated in this service department. This does not include closets or wardrobes in residents' rooms. Separate storage space with provisions for locking and security control shall be provided for residents' personal effects which are not kept in residents' bedroom. ~~(C)~~
  - 3) Provide storage rooms for maintenance supplies, and yard equipment ~~etc.~~. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 300.2900 ~~Building-General~~ General Building Requirements

## a) Elevators

- 1) Have a minimum of one ~~(1)~~ elevator in all buildings of two ~~(2)~~ or more stories in height. The basement shall be considered as one ~~(1)~~ story if it is used by residents. ~~(B-C)~~
- 2) If ~~eighty~~ ~~(80)~~ to ~~two hundred~~ ~~(200)~~ beds are located above the first floor, at least one ~~(1)~~ additional elevator shall be provided. ~~(C)~~
- 3) For facilities with more than ~~two hundred~~ ~~(200)~~ beds, the number of elevators shall be determined from a study of the use requirements and the estimated vertical transportation requirements.
- 4) A minimum of one ~~(1)~~ car shall be of institutional type having inside dimensions that will accommodate a stretcher and attendants and shall be at least five feet ~~(5'-0")~~ by seven feet, six inches ~~(7'-6")~~. The car door shall have a clear opening of not less than three feet, eight inches ~~(3'-8")~~. ~~(C)~~
- 5) Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type. ~~(C)~~
- 6) Elevator controls, alarm buttons, and telephones shall be

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## Section 300.2900(a)(6) (continued)

accessible to physically handicapped in accordance with Capital Development Board rules entitled "Illinois Accessibility Code" ~~Standards Illustrated~~ (71 Ill. Adm. Code 400).

- 7) Elevator call buttons, controls, and door safety stops shall be of a type that will not be activated by heat or smoke. (B)
- 8) Elevators, except freight elevators, shall be equipped with a two-way special service key operated switch to permit cars to bypass all landing button calls and be dispatched directly to any floor. (B-~~G~~)
- 9) Fireman's emergency operations shall be furnished in accordance with American National Standards Institute Standard A17.1 Elevator Safety Code. (B)
- 10) Inspections and tests shall be made and written certification be furnished that the installation meets the requirements set forth in this section and all applicable safety regulations and codes. (B)
- b) Handrails and Grab Bars
  - 1) Handrails shall be provided on both sides of all corridors and ramps used by residents. (B-~~G~~)
  - 2) Handrails shall be provided on all sides of an elevator cab not provided with a door. (B-~~G~~)
  - 3) Handrails on stairs used by residents shall be provided on both sides of the stairs including the platforms and landings. (B)
  - 4) Handrail dimensions and details shall conform to the Capital Development Board rules entitled "Illinois Accessibility Code" ~~Standards Illustrated~~ (71 Ill. Adm. Code 400). It is recommended that handrails be installed at a height of ~~thirty-two (32)~~ inches measured vertically from the floor surface. (B-~~G~~)
  - 5) Grab bars shall be provided for all resident use toilets, showers, and ~~tubs~~. (B-~~G~~)
  - 6) The ends of handrails and grab bars shall return to the wall. (B-~~G~~)

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## Section 300.2900 (continued)

## c) Ceiling Heights

- 1) All rooms occupied or used by residents shall have ceilings not less than eight ~~(8)~~ feet. ~~(G)~~
- 2) Corridors, storage rooms, toilet rooms and other minor rooms shall have ceilings not less than seven ~~(7)~~ feet, eight ~~(8)~~ inches. ~~(G)~~
- 3) Suspended tracks, rails and pipes located in the path of traffic shall be no less than six ~~(6)~~ feet eight ~~(8)~~ inches above the floor. ~~(G)~~
- 4) Boiler room shall have ceiling clearances not less than two ~~(2)~~ feet six ~~(6)~~ inches above the main boiler header and connecting piping. ~~(G)~~
- d) Doors and Windows
  - 1) Main entrance and all exit doors shall swing outward and be provided with door closers and panic hardware. (B-~~G~~)
  - 2) All exterior doors shall be equipped with a signal that will alert the staff if a resident leaves the building. Any exterior door that is supervised during certain periods may have a disconnect device for part-time use. If there is constant ~~twenty-four (24)~~ hour a day supervision of the door, a signal is not required. (B-~~G~~)
  - 3) Locks installed on resident bedroom doors shall be so arranged that they can be quickly and easily unlocked from the corridor side. All such locks shall be arranged to permit exit from the room by a simple operation without the use of a key. The door may be lockable by the occupant if the door can be unlocked from the corridor side and keys are carried by the staff at all times. (B-~~G~~)
  - 4) Resident toilet rooms shall open directly into a corridor or into a resident bedroom. (B-~~G~~)
  - 5) The doors for the toilet rooms used by residents shall have a minimum door width of three ~~(3)~~ feet. (B-~~G~~)
  - 6) No toilet or bathroom door shall be provided with hardware which could allow a resident to become locked in the room. All toilet



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## Section 300.2900(d)(6) (continued)

or bathroom doors and hardware shall be designed to permit emergency egress to the room. (B-~~G~~)

- 7) Doors and windows shall fit snugly and be weather tight, yet open and close easily. ~~(G)~~
- 8) Outside doors, other than required exits, and operable windows shall be equipped with tight-fitting, ~~sixteen~~ ~~(16)~~ mesh screens. Screen doors shall be equipped with self-closing devices. ~~(G)~~
- 9) All doors to resident's sleeping rooms shall be provided with automatic closers actuated by smoke detectors in the resident room. The doors shall normally be free swinging in the open and close directions, and be designed so they will remain in any position except when they are actuated by the detector. They shall then close gently and shall latch when closed. When so actuated they shall automatically close again if opened manually. Each door shall be equipped with a light mounted on the wall adjacent to the door. The light shall illuminate if the door has been closed as a result of the actuation of the controlling smoke detector. Each door closer will be activated only when its own detector annunciates a fire. In addition, a centrally located monitor shall contain signals which identify the resident room in which the smoke detector has signaled the alarm. The system shall be wired into the fire alarm system. (B-~~G~~)

## e) Floors

- 1) Floors shall be smooth, free from cracks and finished so that they can be easily and properly cleaned. Floors shall be covered wall to wall with water resistant material in wet areas including but not limited to bathrooms, kitchens, utility rooms. (B-~~G~~)
- 2) Thresholds and expansion joints shall be flush with the floor to facilitate use of wheelchairs and carts. ~~(G)~~
- f) Mirrors shall be installed above all lavatories except handwashing lavatories in food preparation areas, or in clean and sterile supply areas or at nurses handwashing sink. ~~(G)~~
- g) Provide paper towel dispensers and waste receptacles or electric hand dryers at all lavatories. ~~(G)~~

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## Section 300.2900 (continued)

- h) Rooms containing heat-producing equipment (such as boiler or heater rooms and laundry rooms) shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10 ° F above the ambient room temperature. ~~(G)~~
- i) Sound Transmission Limitation
  - 1) Recreation rooms and exercise rooms, and similar spaces where impact noises may be generated, shall not be located directly over resident bed areas unless special provisions are made to minimize such noise. ~~(G)~~
  - 2) Sound transmission limitations shown in Table A shall apply to partitions, floors, and ceiling construction in resident areas. ~~(G)~~
- j) Hazardous Areas, Fire Extinguishers and Miscellaneous
  - 1) Interior finish flame spread ratings shall be in accordance with the National Fire Protection Association, Life Safety Code Standard 101, Standards for Flame Spread and Smoke Emission Ratings. (B)
  - 2) There shall be at least one ~~(1)~~ approved fire extinguisher in all basements, furnace rooms, and kitchens, laundry rooms and beauty shops. In addition, there shall be on each floor of the building, extinguishers located so a person will not have to travel more than ~~fifty~~ ~~(50)~~ feet from any point to reach one. They shall be inspected annually and recharged when necessary. The date of checking and recharging shall be recorded on a tag attached to the extinguisher. (B-~~G~~)
  - 3) Approved containers with proper covers shall be provided for daily storage of rubbish. (B-~~G~~)
  - 4) Housekeeping throughout the building, including basements, attics, and unoccupied rooms shall be adequately performed to minimize all fire hazards. (B-~~G~~)
  - 5) Comply with any reasonable additional fire protection measures recommended by the Department over and above these requirements or the Office of the State Fire Marshal if conditions in and around building, including its location, indicate that such additional protection is needed. Additional fire protection measures shall include, but are not limited to the institution

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## Section 300.2900(j)(5) (continued)

of a fire watch, installation of a sprinkler system, ~~and/or~~  
and installation of smoke detectors. (B-~~G~~)

- k) Have no other business not related to health care conducted in the building that constitutes a hazard or annoyance to the residents. In any case, the business shall be in a segregated portion of the building and shall have a separate entrance. (A, B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2910 Structural

a) General Design Requirements ~~Data-General~~

- 1) The buildings and all parts thereof shall be of sufficient strength to support all dead, live, and lateral loads without exceeding the working stresses permitted for the materials of their construction in generally accepted good engineering practice. (B-~~G~~)
- 2) Special provision shall be made for loads which have a greater load than the specified minimum live load, including partitions which are subject to change of location. (B-~~G~~)

- b) Construction shall be in accordance with the requirements of National Fire Protection Association Standard 101, Life Safety Code, and the minimum requirements contained herein. (A, B-~~G~~)

- 1) Foundations shall rest on natural solid ground and shall be carried to a depth of not less than one ~~(4)~~ foot below the estimated frost line or shall rest on leveled rock or load-bearing piles or caissons when solid ground is not encountered. Footings, piers, and foundation walls shall be adequately protected against deterioration from the action of ground water. It is recommended that soil test borings be taken to establish proper soil-bearing values for the soil at the building site. ~~(G)~~
- 2) Assumed live loads shall be in accordance with the International Conference Building Officials Uniform Building Code. ~~(G)~~
- 3) The fire resistance rating of the structural members shall be as established by National Fire Protection Association Standard 220 (Standard Types of Building Construction). ~~(G)~~

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## Section 300.2910 (continued)

c) Provisions for Natural Disasters (B-~~G~~)

- 1) Earthquakes: In regions where local experience shows that earthquakes have caused loss of life or extensive property damage, buildings and structures shall be designed to withstand the force assumptions specified in the International Conference Building Officials Uniform Building Code. Seismic zones are identified on the attached map. (B-~~G~~)
- 2) Tornadoes and Floods: Special provisions shall be made in the design of buildings, including structural design, in regions where local experience shows loss of life or damage to buildings resulting from hurricanes, tornadoes, or floods. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.2920 Mechanical Systems

a) General Requirements

- 1) Mechanical systems shall be tested, balanced, and operated to demonstrate that the installation and performance of these systems conform to the requirements of these standards. ~~(G)~~
  - 2) Upon the completion of the contract, the owner shall be furnished with a complete set of manufacturer's operating and preventative maintenance instructions, parts list with numbers and descriptions for each piece of equipment and a copy of the air-balance report. A complete set of these documents shall be kept on the premises. ~~(G)~~
  - 3) The owner shall be provided with instructions in the operational use of the systems and equipment as required. ~~(G)~~
- b) Thermal and Acoustical Insulation
- 1) Insulation shall be provided for the following:
    - 1) Boilers, smoke breaching, and stacks. ~~(G)~~
    - 2) Steam supply and condensate return piping. (B-~~G~~)
    - 3) Hot water piping above 180 ° F and all hot water heaters, generators, and converters. ~~(G)~~



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## Section 300.2920(b) (continued)

- 5) Hot water piping above 125 ° F which is exposed to contact by residents. (B)
- 6) Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point. ~~(C)~~
- 7) Water supply and drainage piping on which condensate may occur. ~~(C)~~
- 8) Air ducts and casings with outside surface temperatures below ambient dew point. ~~(C)~~
- 9) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system. ~~(C)~~
- 10) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents when such insulation is not necessary for preventing excessive system heat loss or excessive heat gain. ~~(C)~~
- 11) Insulation including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment shall have a flame spread rating of ~~twenty-five (25)~~ or less and a smoke developed rating of ~~one hundred fifty (150)~~ or less as determined by an independent testing laboratory in accordance with American Society Testing Materials Standard E84. (B-~~C~~)  
Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements where they are located entirely outside of a building, or do not penetrate a wall or roof or do not create an exposure hazard.
- 12) Access for filter changing shall be provided within equipment rooms. ~~(C)~~
- c) Steam and Hot Water Systems. Supply and return mains and risers for cooling, heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends. ~~(C)~~
- d) Heating, Cooling, and Ventilating Systems
  - 1) A design temperature of 75 ° F for both summer and winter design conditions shall be provided for all resident use areas including corridors. ~~(C)~~

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## Section 300.2920(d) (continued)

- 2) All ventilation supply, return and exhaust systems shall be mechanically operated. ~~(C)~~
- 3) Outdoor air intakes shall be located as far as practical but not less than ~~fifteen (15)~~ feet from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than six ~~(6)~~ feet above ground level, or if installed above the roof, three ~~(3)~~ feet above roof level.
- 4) The ventilation systems shall be designed and balanced to provide the pressure relationships and ventilation rates as shown in Table B. (B-~~C~~)
- 5) A manometer shall be installed across each filter bed serving central air systems. ~~(C)~~
- 6) Air conditioning and ventilation systems shall be designed, installed and maintained as required by National Fire Protection Association Standard 90A. (A, B-~~C~~)
- 7) The hood and duct system for cooking equipment used in processes producing smoke or grease-laden vapors shall be in conformance with National Fire Protection Association Standard 96. That portion of the fire extinguishment system required for protection of the duct system may be omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratories. (A, B-~~C~~)
- 8) The ventilation of the medical gas storage room ~~(C)~~ shall conform to the requirements of National Fire Protection Association Standard 56A "Inhalation Anesthetics" including the gravity option system. (B-~~C~~)
- 9) Boiler rooms and other rooms having combustion equipment shall be provided with sufficient outdoor air to maintain combustion rates of equipment and limit temperatures to 97 ° F. Effective Temperature as defined by American Society Heating Refrigeration Engineers Handbook of Fundamentals. (A, B-~~C~~)
- 10) Rooms containing heat producing equipment, such as boiler rooms, heater rooms, food preparation centers, laundries, and

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## Section 300.2920(d)(10) (continued)

sterilizer rooms shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10° F. above the ambient temperature. ~~(C)~~ The ventilation rates shown in Table B shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.2930 Plumbing Systems

a) General Requirements. All plumbing systems shall be designed and installed in accordance with the requirements of the Illinois Plumbing Code (77 Ill. Adm. Code 890) except that the number of resident required water closets, lavatories, bathtubs, showers, and other fixtures shall be as required by this Part ~~the standards~~ and the facility program. (B, ~~C~~)

## b) Plumbing Fixtures

- 1) Plumbing fixtures shall be of non-absorptive acid-resistant materials.
- 2) The water supply spout for lavatories and sinks required for filling pitchers for nursing staff and food handlers' handwashing, shall be mounted so that its discharge point is a minimum distance of five ~~(5)~~ inches above the rim of the fixture. (B, ~~C~~)
- 3) Handwashing lavatories used by nursing staff and food handlers shall be trimmed with valves which can be operated without the use of hands. When blade handles are used for this purpose, the blade handles shall not exceed four and one half ~~(4 1/2)~~ inches in length, except the handles on clinical sinks shall not be less than six ~~(6)~~ inches in length. ~~(C)~~
- 4) Clinical rim flush sinks shall have an integral trap in which the upper portion of the trap seal provides a visible water surface. ~~(C)~~
- 5) The potwashing sink shall be a three ~~(3)~~ compartment sink with one compartment at least ~~fourteen~~ ~~(14)~~ inches deep. ~~(C)~~

## Section 300.2930(b) (continued)

- 6) Shower bases and tub bottoms shall be provided with nonslip surfaces. (B, ~~C~~)

## c) Water Supply Systems

- 1) Water supply systems shall be designed to supply water at sufficient pressure and volume to operate all fixtures and equipment during maximum demand periods. ~~(C)~~
- 2) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture. ~~(C)~~
- 3) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers. ~~(C)~~
- 4) Hot water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. (B, ~~C~~)
- 5) Hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees F. (A, B, ~~C~~)
- 6) Each hot water system serving resident areas shall include at least one of the following equipment requirements to insure that the water temperature does not exceed 110 degrees F:
  - A) A thermostatically controlled mixing valve, or ~~shall be provided on each hot water system serving resident areas to insure that the water temperature does not exceed 110 degrees F.~~
  - B) A 100 degree F. aquastat which limits the water temperature in the water heater to a maximum temperature of 110 degrees F. and a solenoid operated shut off valve activated by a sensing element in the water line which shuts off the water and activates an alarm at the nurses station when the water temperature exceeds 100 degrees F. (A, B, ~~C~~)

## d) Hot Water Heaters and Tanks

- 1) The hot water heating equipment shall have sufficient capacity to supply water at the temperature and quantities in the following areas:
  - A) The hot water heating equipment shall have sufficient capacity to supply water at the temperature and quantities in the following areas:



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## Section 300.2930(d)(1)(A) (continued)

	Resident Service	Dietary	Laundry
gallons/hour/bed Temperature °F.	6 1/2 110	4 140*	4 1/2 180

\*180° F. water required at dishwasher and pot and pan sink.

- B) Water temperatures to be taken at the point of use or discharge of the hot water or inlet to processing equipment. ~~(C)~~
- 2) Water storage tanks shall be fabricated of corrosion resistant metal or lined with noncorrosive material. ~~(C)~~
- e) Drainage Systems. Insofar as possible drainage piping shall not be installed above the ceiling nor installed in an exposed location in food preparation centers, food serving facilities, food storage areas, and other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems. ~~(B)(C)~~
- f) Nonflammable Gas Systems. Nonflammable medical gas systems if installed shall be in accordance with the requirements of National Fire Protection Association Standards 56A and 56F. ~~(B)(C)~~
- g) Clinical Vacuum (Suction) Systems. Clinical vacuum systems if installed shall be in accordance with the requirements of the Compressed Gas Association Pamphlet P-2.1. ~~(B)(C)~~
- h) Fire Extinguishing Systems
  - 1) A complete automatic sprinkler system shall be installed throughout all facilities regardless of construction type. ~~(A, B)(C)~~
  - 2) All sprinkler and other fire extinguishing systems shall be designed and installed in accordance with National Fire Protection Association Standard 101 and referenced codes. ~~(A, B)(C)~~
  - 3) All sprinkler systems shall be maintained in accordance with National Fire Protection Association Standard 13A. ~~(A, B)(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.2940 Electrical Systems

## a) General Requirements

- 1) All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities required by these standards. All materials shall be listed as complying with available standards of Underwriters' Laboratories, Inc. or other similarly established standards. ~~(B)(C)~~
- 2) All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified and be in accordance with these standards. ~~(A, B)(C)~~
- 3) The installation shall meet all the requirements of the latest "National Electrical Code". ~~(A, B)(C)~~
- b) Switchboards and Power Panels. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in ambient temperature conditions. ~~(C)~~
- c) Panelboards. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits. ~~(C)~~
- d) Lighting
  - 1) All spaces occupied by people, machinery, and equipment within buildings, approaches to and exits from buildings, and parking lots shall have lighting. ~~(C)~~
  - 2) Resident's rooms shall have general lighting. A reading light shall be provided for each resident. At least one light fixture shall be switched at the entrance to each resident room. All switches for control of lighting in resident's sleeping areas shall be of the quiet operating type. ~~(C)~~

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## Section 300.2940 (continued)

## e) Receptacles (Convenience Outlets)

- 1) Each resident bed room shall have duplex grounding type receptacles as follows: One located each side of the head of each bed; one for television if used; and one on another wall. Receptacles are to be located between ~~twelve (12)~~ to ~~thirty (30)~~ inches above the finished floor. (B-~~G~~)
- 2) Resident bathrooms shall have at least one duplex receptacle.
- 3) See Article 517 of National Fire Protection Association Standard 70 for grounding requirements. ~~(G)~~
- 4) Duplex receptacles shall be installed approximately 50 feet ~~fifty feet (50' 0")~~ apart in all corridors and within 25 feet ~~twenty five feet (25' 0")~~ of ends of corridors. ~~(G)~~
- f) Door Alarm System. Each exterior door shall be equipped with a signal that will alert staff if a resident leaves the building. Any exterior door that is supervised during certain periods may have a disconnect device for part-time use. If there is constant ~~twenty-four~~ 24 hour a day supervision of the door, a signal is not required. (B-~~G~~)

## g) Nurses' Calling System

- 1) Each resident room shall be served by at least one calling station and each bed shall be provided with a call station. One call station may serve two adjacent beds. Calls shall register at the nurses' station and shall activate a visible signal in the corridor at the resident's door, and in the nurse's station. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two or more calling stations, identifying lights shall be provided at the nurse's station. (B-~~G~~)
- 2) A nurses' call station shall be provided for residents' use at each resident's toilet, bath, and shower location. The cord shall be long enough to reach within six inches ~~(6")~~ of the floor. (B-~~G~~)

## h) Fire Alarm System

- 1) A manually and automatically operated fire alarm system shall be installed. (A, B-~~G~~)

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## Section 300.2940(h) (continued)

- 2) Automatic smoke detectors shall be installed in all resident sleeping rooms and at ~~thirty (30)~~ feet on center in all corridors other than sleeping area corridors. (A, B-~~G~~)
- i) Emergency Electrical System
  - 1) To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power. The emergency system shall consist of the life safety branch and the critical branch. (B-~~G~~)
  - 2) The source of this emergency electrical service shall be an emergency generating set or an approved dual source of normal power. (B-~~G~~)
  - 3) Life Safety Branch, Automatic Transfer ten ~~(10)~~ Seconds.
    - A) Illumination of means of egress as necessary for corridors, passageways, stairways, landings and exit doors, and all ways of approach to and through exits. (A, B-~~G~~)
    - B) Exit signs and exit directional signs. (A, B-~~G~~)
    - C) Sufficient lighting in dining room and recreation areas to provide illumination to exit ways. (A, B-~~G~~)
    - D) Fire alarms activated at manual stations, by electric water flow alarm devices in connection with sprinkler systems, and by all automatic detection systems. (A, B-~~G~~)
    - E) Communication systems, where these are used for issuing instructions during emergency conditions. (A, B-~~G~~)
    - F) Task illumination, and selected receptacles at the generator set location. (B-~~G~~)
  - 4) Critical Branch, Automatic Transfer ten ~~(10)~~ Seconds
    - A) Task illumination and selected receptacles in the nurse's station including the medication preparation area. (B-~~G~~)
    - B) Sump pumps and other equipment required to operate for the safety of major apparatus including associated control systems and alarms. (B-~~G~~)



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## Section 300.2940(i)(4) (continued)

- C) Elevator cab lighting and communication systems. (B-~~G~~)
- D) Nurses' call system (B-~~G~~)
- 5) Critical Branch, Automatic or Manual Systems Heating equipment to provide heating for patient rooms. EXCEPTION: Where the facility is served by two ~~(2)~~ or more electrical services supplied from separate generators or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the facility and the generating sources is not likely to cause an interruption of more than one of the facility service feeders. (B-~~G~~)
- 6) Details
- A) The life safety and critical branch shall be in operation within ten ~~(10)~~ seconds after the interruption of normal electric power supply. (B-~~G~~)
- B) Receptacles connected to emergency power shall be distinctively marked. (B-~~G~~)
- C) The emergency generator shall not be solely dependent upon a public utility gas system for the fuel supply. Means shall be provided for automatically transferring from one fuel supply to another where dual fuel supplies are used. (B-~~G~~)
- D) Where fuel storage facilities are provided on the site, the fuel tank shall have minimum capacity for ~~twenty-four~~ ~~(24)~~ hour operation of the generator. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS  
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

## Section 300.3010 Applicability

- a) These standards shall apply to all existing Long-Term Care Facilities and all minor alterations or remodeling changes to existing facilities. See Subpart N for New Construction and Major Additions and Alterations.

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## Section 300.3010 (continued)

- b) Minor alterations or remodeling changes which do not affect the structural integrity of the building, which do not change functional operations, which do not affect fire safety, and which do not add beds or facilities over those for which the Long-Term Care Facility is licensed need not be submitted for drawing approval. However, the Health Facilities Planning Board Requirements must be met for all alteration and remodeling projects. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3020 Codes and Standards

- a) Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances and regulations which are enforced by city ~~city~~, county ~~county~~ or other local jurisdictions. (B-~~G~~)
- b) The 1981 Edition of the National Fire Protection Association (NFPA) Standard No. 101, Life Safety Code for existing structures and all appropriate references under Appendix "B" of that Code, but no subsequently amended edition of the Code, shall apply to and become a part of these standards. (A, B-~~G~~) Pursuant to the Medicare/Medicaid certification requirements of 42 CFR 405.1134(a) (1983) and 42 CFR 442.321(c) (1983), but no subsequently amended editions of these Federal regulations, any skilled nursing facility that on December 4, 1980 or on November 26, 1982, or any intermediate care facility that on November 26, 1982 complied with the requirements of the 1967 or 1973 edition of the Life Safety Code, rather than the 1981 edition of the Life Safety Code, will be accepted by the Department for licensure and certification as long as the facility continues to remain in compliance with the 1967 or 1973 edition of the Code.

- c) The following exceptions to the 1967 Life Safety Code have been established by the Department:

- 1) Facilities shall be of the following heights and construction types with sprinkler requirements identified in the Table C: (B-~~G~~)
- 2) Dead-end corridors greater than ~~fifty~~ ~~(50)~~ feet in length shall be altered so that exits are accessible in at least two ~~(2)~~ directions from all points in aisles, passageways, and corridors. (B-~~G~~)

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## Section 300.3020(c) (continued)

- 3) Exit discharge doors and resident sleeping doors must be at least 34 inches in width. Width required is the width of the door leaf. ~~(6)~~
- 4) All corridors shall be at least four ~~(4)~~ feet wide. In Skilled Nursing Facilities, corridors shall be at least six ~~(6)~~ feet wide. ~~(6)~~
- d) The following equivalencies have been established by the Department:
  - 1) Where corridor partition walls are not continuous from the floor slab to the underside of the floor or roof slab above, through any concealed spaces such as those above the suspended ceilings and through interstitial structural and mechanical spaces, the following equivalencies are permitted: (B, ~~6~~)
    - A) A membrane ceiling which may be lath and plaster or drywall or a lay-in ceiling with all tiles clipped down and with all clips remaining in place, or with all the tiles weighing at least one ~~(1)~~ pound per square foot. The ceiling may be suspended but it must be constructed continually from exterior wall to exterior wall and must be part of a ~~(1)~~ one-hour rated assembly. All recessed lights, all duct outlets and all speaker outlets ~~etc.~~ must be properly protected in accordance with Code. Plenums are not allowed unless each outlet is properly protected. This concept is applicable only to ~~(2)~~ two-hour fire resistive and ~~(1)~~ one-hour protected noncombustible construction.

- B) A membrane ceiling of at least a one ~~(1)~~ hour rating (such as two layers of 5/8" Fire Code drywall) is acceptable for noncombustible, one ~~(1)~~ hour protected ordinary, ordinary, one ~~(1)~~ hour protected wood frame, wood frame and heavy timber construction.
- C) Corridor walls need not run up in ~~(2)~~ two-hour fire resistive and ~~(1)~~ one-hour protected noncombustible construction if automatic sprinklers are installed throughout.
- D) Smoke detectors may be used in lieu of continuous corridor wall construction all building construction types which are equipped throughout with an automatic extinguishment system required by these Standards. Automatic heat detectors, in

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## Section 300.3020(d)(1)(D) (continued)

- 2) In lieu of automatic smoke detectors, may be installed in kitchens, laundry rooms, boiler/furnace rooms and attic spaces.
  - A) This equivalency is applicable only to those facilities which are in conformance with these requirements on the date of promulgation of these standards and only if the facility remains in conformance. The equivalency is applicable to facilities with nonconforming construction type. The following requirements must be met for facilities four stories or more in height of protected ordinary construction. ~~(6)~~
    - A) The fire resistance rating of all structural members must meet the two-hour fire resistive classification of NFPA 220, Standard Types of Building Construction, dated May, 1961, except that floor and roof framing members and nonbearing walls may be of combustible construction.
    - B) Smoke detectors must be installed in all resident rooms, corridors, living areas, day rooms and in all hazardous and severely hazardous areas throughout the facility. However, automatic heat detectors may be installed, in lieu of automatic smoke detectors, in kitchens, laundry rooms, boiler/furnace rooms and attic spaces, (places where smoke, dust ~~and/or~~ and humidity sometimes activate smoke alarms when no fire is present, resulting in false fire alarms), if the facility chooses to do so for the purpose of reducing the number of false fire alarms. A zone readout identifying areas involved in a fire must be provided.
  - C) All electrical systems shall meet the National Electrical Code in effect at the time of acceptance of the facility.
  - D) Facility shall establish and enforce written procedures to prohibit smoking in resident sleeping rooms and corridors. Smoking is permitted only in controlled areas.
  - E) A complete automatic extinguishment system shall be installed throughout the facility.
  - F) All health survey deficiencies must be corrected.
  - G) The physically handicapped residents shall be housed on the lowest sleeping room floor and ambulant residents may be housed on any floor.



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## Section 300.3020(d)(2) (continued)

- H) Complete smoke barriers including one-hour rated walls and ~~1-3/4~~ one and three quarters inch thick solid core wood corridor doors with closers shall be installed as directed by the Department.

- e) The following rules ~~codes~~ which were effective at the date of approval by the Department of the final drawings and specifications or the final inspection of the building apply: (B, ~~G~~)

- 1) Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health ~~State of Illinois Environmental Health Protection~~

- 2) Illinois Accessibility Code ~~Standards Illustrated~~ (71 Ill. Adm. Code 400), ~~State of Illinois~~ Capital Development Board

- 3) Fire Prevention and Safety (41 Ill. Adm. Code 100), ~~State of Illinois~~ Office of the State Fire Marshal

- 4) Food Service Sanitation (77 Ill. Adm. Code 750), ~~State of Illinois~~ Department of Public Health - Environmental Health ~~Protection~~

- 5) Boiler and Pressure Vessel Safety ~~Rules and Regulations~~ (41 Ill. Adm. Code 120), ~~State of Illinois~~ Office of the State Fire Marshal

- ~~6) State of Illinois, Safety Glazing Materials Act State of Illinois Department of Labor~~

- f) ~~7)~~ The requirements in this Part ~~These IDPH Standards~~ govern in cases of differences between the requirements in this Part ~~these IDPH Standards~~ and the Codes and rules referenced in this Section ~~Standards listed before~~. (B, ~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3030 Preparation of Drawings and Specifications

Drawings and specifications prepared for work which is required by these Standards shall be prepared in accordance with Section 300.2830 of the Construction Standards for New Facilities. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.3040 Site

- a) Each facility shall comply with all applicable zoning ordinances and be located on a reasonably flat or rolling, well-drained site that is: not subject to flooding; reasonably free from sources of excessive noise, noxious or hazardous smoke or fumes; not in a deteriorated, unpleasant, or potentially hazardous area; and not near uncontrolled sources of insect and rodent breeding. ~~(G)~~

- b) Each facility shall be located in or near a community which can provide the necessary supportive services for the facility such as physicians' services, medical facilities, public utilities, or other acceptable substitutes; and be located on a well-maintained, all-weather road. ~~(G)~~

- c) Each facility shall be served by a potable water supply with water pressure and volume that is acceptable to this Department. (B)

- d) Each facility shall have at least one ~~(1)~~ municipal or private fire hydrant, located within ~~three hundred~~ ~~(300)~~ feet of the building and satisfactory for use by the equipment of the fire department serving the building, or have an acceptable equivalent. Additional hydrants may be required if needed to properly protect the residents from fire hazards. (B, ~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3050 Administration and Public Areas

- a) Facilities for the physically handicapped (public, staff and residents) shall be provided in administration and public areas as well as in resident areas. ~~(C)~~

- b) Each facility shall be provided with sufficient administrative office space for clerical, financial, and managerial functions and provide satisfactory space which can be used for privacy in interviewing applicants ~~and for discussion with relatives~~ ~~etc.~~

- c) Each facility shall be provided with satisfactory space or an office for the administrator.

- d) Each facility shall be served by reliable telephone service.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.3060 Nursing Unit

## a) General Requirements for Bedrooms

1) Resident bedrooms shall have an entrance directly off of a corridor with an entrance door that swings into the room. Rooms used as bedrooms and included in the licensed capacity as of December 24, 1987, which do not open directly into corridors but instead open into large living/dining/activity areas, are exempt from this subsection (a)(1) ~~rule~~. However, no additional such rooms will be permitted to be established after December 24, 1987. ~~(C)~~

2) Resident bedrooms shall have adequate and satisfactory artificial light and be equipped in accordance with Section 300.3140(c). ~~(C)~~

3) Resident toilet rooms shall open directly into a corridor or into a resident's bedroom. ~~(B, C)~~

4) A closet or wardrobe at least four ~~(4)~~ square feet shall be provided for each resident. ~~(C)~~

5) No bedroom floor shall be more than three ~~(3)~~ feet below the adjacent ground level. ~~(C)~~

6) Each room used as a resident bedroom shall have at least one ~~(1)~~ outside window, and a total window area to the outside equal to at least one-tenth ~~(1/10)~~ the floor area of the room. ~~(C)~~

7) Nurses' call system shall be provided in accordance with Section 300.3140(e). ~~(B, C)~~

8) Visual privacy shall be provided for each resident in multibed rooms. Design for privacy shall not restrict resident access to entry, lavatory, or toilet. ~~(C)~~

## b) Resident Bedroom

1) Single resident bedrooms shall contain at least ~~one hundred~~ ~~(100)~~ square feet. Multiple resident bedrooms shall contain at least ~~eighty~~ ~~(80)~~ square feet per bed. Multiple bedrooms of not less than ~~seventy~~ ~~(70)~~ square feet per bed may be approved by the Department if services can be provided. Minimum usable floor area shall be exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, vestibules, or clearly definable entryways. Those bedrooms for which

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## Section 300.3060(b)(1) (continued)

facilities ~~which~~ had waivers to this subsection (b)(1) ~~rule~~ ~~as of~~ on (and continuously since) December 24, 1987, and which have at least 90 square feet for single bedrooms and 70 square feet for multi-bedrooms, are exempt from this subsection (b)(1) ~~rule~~. Those bedrooms for which facilities ~~which~~ had waivers to this subsection (b)(1) on (and continuously since) ~~as of~~ December 24, 1987, but which have less than 90 square feet for single bedrooms and 70 square feet for multi-bedrooms, ~~must~~ continue to be subject to ~~apply for a~~ waiver procedures on an annual basis (See Section 300.320). ~~(C)~~

2) Maximum room capacity shall be four ~~(4)~~ residents. Beds shall be at least three ~~(3)~~ feet apart, and no more than three ~~(3)~~ beds deep from an outside wall. There shall be a minimum of ten ~~(10)~~ feet between walls or a wall and any built in furniture or storage space. ~~(C)~~

## c) Special Care Room

1) In Intermediate Care Facilities, provide a special care room for each ~~one hundred fifty~~ ~~(150)~~ beds. In Skilled Nursing Facilities, provide a special care room for each ~~fifty~~ ~~(50)~~ beds or portion thereof. ~~(C)~~

2) Provide this room with a water closet, lavatory and all other necessary facilities to meet the resident's needs and as required to care for an ill resident. ~~(C)~~

3) This room shall be located to provide proper and efficient supervision of the resident by the nursing staff. ~~(C)~~

4) This room shall be included in the authorized maximum bed capacity for the facility.

5) It is permissible for the room to be occupied by a resident, not in need of special care, provided the resident is clearly informed and understands he will be immediately transferred out of the room any time of day or night, whenever the room is needed to care for a resident requiring special care. ~~(C)~~

## d) Nurses' Station

1) Provide a minimum of one ~~(1)~~ nurses' station on each floor in skilled nursing facilities there shall be a station for each nursing unit. The station shall have direct access to a



## Section 300.3060(d)(1) (continued)

corridor, shall be located near the area it will serve, and shall be designed to provide visual control of the area. It shall be separated satisfactorily from the nurses' utility rooms. In Intermediate Care Facilities one ~~(1)~~ nurses' station serving two ~~(2)~~ floors housing residents is acceptable if there are less than ~~fifteen~~ ~~(15)~~ beds on an adjacent station. (B-~~6~~)

2) At least one ~~(1)~~ nurses' station shall have a medicine sink with hot and cold running water, a work counter, a medicine cabinet, and necessary equipment and furnishings (in skilled nursing facilities each nurses' stations shall be so equipped). ~~(C)~~

3) Provide a nurses' toilet and handwashing sink convenient to the nurses' station. ~~(C)~~

## e) Bath and Toilet Rooms

1) The maximum capacity of resident beds on each floor shall be used to determine the number of fixtures required even though some of the beds may not be occupied. ~~(C)~~

A) Provide a minimum of one ~~(1)~~ water closet, one ~~(1)~~ lavatory, and one ~~(1)~~ bathtub or shower for each sex on each floor occupied by residents. ~~(C)~~

B) Provide a minimum of one ~~(1)~~ lavatory and one ~~(1)~~ water closet for each ten ~~(10)~~ resident beds on each floor. ~~(C)~~

C) Provide a minimum of one ~~(1)~~ bathtub or shower for each ~~fifteen~~ ~~(15)~~ resident beds on each floor. ~~(C)~~

D) Each lavatory shall be provided with a well-illuminated mirror. ~~(C)~~

2) All bath and toilet rooms shall be easily accessible, and conveniently located. Group bath and toilet facilities shall be partitioned or curtained for privacy. ~~(C)~~

3) All showers, other than those for residents needing assistance in bathing, shall have minimum dimensions of three ~~(3)~~ feet by three ~~(3)~~ feet. ~~(C)~~

## Section 300.3060(e) (continued)

~~4) Shower stalls shall have a low or no curb at the entrance opening. Under certain circumstances this may be waived but in no instance can the curb be higher than three (3) inches. (C)~~

4) ~~5)~~ If toilet rooms provided adjacent to residents' bedrooms are not large enough to permit use by wheelchair residents, at least one ~~(1)~~ toilet room or enclosure measuring five ~~(5)~~ feet by six ~~(6)~~ feet shall be provided on each floor housing residents (In Skilled Nursing Facilities there shall be one for each sex on each floor). Provide a lavatory usable by wheelchair residents in this room. ~~(C)~~

5) ~~6)~~ Provide on each floor at least one ~~(1)~~ bathing facility or enclosure of not less than eight ~~(8)~~ feet six ~~(6)~~ inches by eight ~~(8)~~ feet six ~~(6)~~ inches with an acceptable system for assistance in bathing persons with physical disabilities. If a shower is installed instead of a bathtub, such shower shall have a minimum dimension of four ~~(4)~~ feet wide by three ~~(3)~~ feet six ~~(6)~~ inches deep. These showers shall have a water inlet to which is connected a flexible hose with spray or shower head attached to the end of the hose. If desired, a conventional shower head installation may also be provided but it must be valved off from the lower water inlet. ~~(C)~~

## f) Utility Rooms

1) Every facility shall have clean and soiled utility functions in separate rooms. There shall be at least one ~~(1)~~ each of these rooms in the facility (In Skilled Nursing Facilities there shall be at least one ~~(1)~~ each of these rooms on each floor having resident bedrooms). ~~(C)~~

## 2) Clean Utility Room

A) The clean utility room shall be large enough to contain:

- i) a work counter or table;
- ii) a sink with drainboard;
- iii) ample storage cabinets for clean and sterile supplies and equipment; and
- iv) an autoclave, if required, for sterilizing needles, syringes, catheters, dressings, and similar items.

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## Section 300.3060(f)(2) (continued)

- B) The autoclave may be located in the nurses' station area. The autoclave may be waived in lieu of other methods of sterilization approved by the Department. ~~(C)~~
- 3) Soiled Utility Room
- A) The soiled utility room shall be large enough to contain:
- i) a two compartment sink with drainboards;
  - ii) ample storage cabinets;
  - iii) a clinical rim flush sink for: rinsing bed pans, urinals, and linen soiled by solid materials, and similar type procedures; and
  - iv) equipment ~~and/or~~ and facilities for sanitizing bed pans, emesis basins, urine bottles, and other utensils, which meet accepted methods and procedures for such sanitation.
- B) Based upon approval of the program narrative, the Department will consider a waiver of this paragraph for Intermediate Care Facilities. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3070 Living, Dining, Activities Rooms

- a) Provide at least one ~~(1)~~ comfortably furnished living room and dining room for use of residents. ~~(C)~~
- 1) The room ~~(s)~~ shall be an outside room and if combined shall have an area of not less than ~~twenty~~ ~~(20)~~ square feet per resident bed. ~~(C)~~
- 2) The dining room shall be sufficient in area to allow proper and comfortable service for the residents. ~~(C)~~
- 3) Be located so that the room is not an entrance vestibule from the out-of-doors. ~~(C)~~
- 4) The furniture shall be arranged so that it is not an obstruction to traffic in or out of the facility. ~~(C)~~

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## Section 300.3070 (continued)

- b) The activity room may be combined with the living ~~and/or~~ or dining room.
- c) In multiple story buildings, living rooms must be provided on each floor unless a variance to this requirement is approved in writing by the Department. Such a variance may be granted based upon the population and condition of the residents.
- d) Additional interior rooms may be used for television, craft, or similar activities.
- e) Under no circumstances shall any of these rooms be used as a bedroom. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3080 Treatment and Personal Care

Space and appropriate equipment shall be provided to meet the resident's needs for treatment, grooming and hair care. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3090 Service Departments

## a) Kitchen

- 1) Provide a kitchen area, not including food storage area, of approximately ten ~~(10)~~ square feet per resident bed; this may be reduced for a facility with ~~forty~~ ~~(40)~~ or more beds. Any deviation from this requirement must receive approval from the Department. Such approval will only be granted if it can be shown that sufficient space can be provided to meet the needs of the residents. ~~(B-C)~~
- 2) Provide kitchen equipment in an arrangement for convenient operation, good sanitation, healthful working conditions and control of heat, noise, and odors. ~~(B-C)~~
- 3) Provide appropriate equipment for the preparation and serving of meals. ~~(B-C)~~
- 4) Provide refrigeration of perishable foods. ~~(B-C)~~



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## Section 300.3090(a) (continued)

5) The kitchen shall be equipped with a two ~~(2)~~ compartment sink for washing and sanitizing dishes, pots, pans and utensils. A commercial type dishwasher is recommended. (B ~~(C)~~)

6) The kitchen shall be provided with a handwashing lavatory. (B ~~(C)~~)

7) The walls and ceilings of all food handling rooms shall be finished with smooth, washable, light-colored surfaces. ~~(C)~~

8) All openings to the outside shall be effectively screened during fly seasons, and screen doors shall be equipped with self-closing devices; or a satisfactory alternative method. ~~(C)~~

9) The kitchen shall be located so that no resident must pass through it to reach a bathroom, resident's bedroom, the living room, dining room, or the out-of-doors. (B ~~(C)~~)

10) Provide approximately two and one-half ~~(2 1/2)~~ square feet per patient bed for bulk and daily food storage located in a room convenient to the kitchen. ~~(C)~~

## b) Laundry

1) Provide a laundry room equipped with adequate facilities for satisfactorily doing all laundering, unless a commercial laundry service is used. ~~(C)~~

2) Provide satisfactory and separate areas for soiled holding and sorting and clean linen storage. These may be in the same room if well defined and adequate separation is provided. ~~(C)~~

3) The laundry facilities shall not be located in a room used by residents, or for food storage, preparation or serving. It shall be located so that soiled linens are not carried through a food handling area to reach it. (B ~~(C)~~)

## c) Storage

1) Provide a total area of approximately seven and one-half ~~(7 1/2)~~ square feet per resident bed for the storage area required in this section. ~~(C)~~

2) Provide adequate storage space for personal possessions of

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## Section 300.3090(c)(2) (continued)

residents and staff, linens, supplies, and other items. This storage shall be such that it does not constitute a fire or accident hazard and will not be in the way of residents or staff. ~~(C)~~

3) Provide adequate storage space in the facility, out of the way of residents and staff, to store wheelchairs, walkers, and similar equipment temporarily not being used. ~~(C)~~

4) Provide closets for cleaning supplies, janitor's sinks, linen closets, storerooms for luggage, furniture replacements, etc. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 300.3100 General Building Requirements ~~Building General~~

## a) Elevators

1) Provide a minimum of one ~~(1)~~ elevator in all buildings of three ~~(3)~~ or more stories in height. Additional elevators shall be provided as determined by the Department, based on the number, population, and condition of the residents. The basement, if it is used by residents, shall be considered as one ~~(1)~~ story. ~~(C)~~

2) If ~~(60)~~ to ~~(200)~~ beds are located above the second floor, at least one ~~(1)~~ additional elevator shall be provided. If over ~~(200)~~ beds are located above the second floor, the number of additional elevators shall be determined by the Department. ~~(C)~~

3) The administrator of the facility must be able to demonstrate to the Department the ability to transfer a patient according to physician's orders using existing elevators and elevator doors. ~~(C)~~

## b) Handrails and Grab Bars

1) Handrails shall be provided on both sides of all corridors, stairs, and ramps. Handrails shall be one ~~(1)~~ and one-half ~~(1 1/2)~~ inches in diameter and one ~~(1)~~ and one-half ~~(1 1/2)~~ inches minimum clear of the wall. The height shall be ~~(34)~~ to ~~(40)~~ inches measured vertically

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## Section 300.3100(b)(1) (continued)

from floor surface. Refer to the rules of the Capital Development Board entitled "~~State of Illinois Accessibility Code~~" (71 Ill. Adm. Code 400) ~~Standards~~ for other acceptable handrail dimensions and details. (B-~~7~~-G-)

- 2) Grab bars shall be provided at all resident toilets, showers, tubs, and sitz bath~~s~~~~etc.~~. Refer to the rules of the Capital Development Board entitled "~~State of Illinois Accessibility Code~~" (71 Ill. Adm. Code 400) ~~Standards~~ for grab bar dimensions and details. (B-~~7~~-G-)

## c) Ceiling Heights

- 1) All rooms occupied by or used by residents shall have not less than eight ~~(8)~~ feet ceiling height. ~~(C)~~
- 2) Corridors, storage rooms, toilet rooms and other minor rooms shall have not be less than seven feet eight inches ~~(7' 8")~~ ceiling height. ~~(C)~~
- 3) Suspended tracks, rails and pipes located in the path of traffic shall not be less than six feet eight inches ~~(6' 8")~~ above the floor. ~~(C)~~

## d) Doors and Windows

- 1) Main entrance and exit doors shall swing outward and be provided with door closers and panic-hardware. (B-~~7~~-G-)
- 2) All exterior doors shall be equipped with a signal that will alert the staff if a resident leaves the building. Any exterior door that is supervised during certain periods may have a disconnect device for part-time use. If there is constant ~~twenty-four (24)~~ hour a day supervision of the door, a signal is not required. (B-~~7~~-G-)
- 3) Locks installed on resident bedroom doors shall be so arranged that they can be quickly and easily unlocked from the corridor side. All such locks shall be arranged to permit exit from the room by a simple operation without the use of a key. The door may be lockable by the occupant if the door can be unlocked from the corridor side and the keys are carried by the attendants at all times. (B-~~7~~-G-)
- 4) Resident toilet rooms shall open directly into a corridor or into a resident's bedroom. (B-~~7~~-G-)

## Section 300.3100(d) (continued)

- 5) The doors for the toilet rooms used by residents shall have a minimum door width of ~~thirty (30)~~ inches. (B-~~7~~-G-)
- 6) No toilet or bathroom door shall be provided with hardware which could allow a resident to become locked in the room. All toilet or bathroom doors and hardware shall be designed to permit emergency egress from the room. (B-~~7~~-G-)
- 7) Thresholds or parting strips in doorways used by residents shall be flush with the floor. ~~(C)~~
- 8) Doors and windows shall fit snugly and be weather tight, and shall open and close easily. ~~(C)~~
- 9) Outside doors, other than required exits, and operable windows shall be equipped with tight-fitting, 16-mesh screens. Screen doors shall be equipped with self-closing devices. ~~(C)~~

## e) Floors

- 1) Floors shall be smooth, free from cracks and finished so that they can be easily and properly cleaned. (B-~~7~~-G-)
- 2) Floors in bathrooms, kitchens, and utility rooms shall be completely covered with water resistant material. (B-~~7~~-G-)

## f) Walls and Ceilings

- 1) Walls and ceilings shall have sound construction, covered with plaster or sheet rock or similar material in good repair, and free from cracks or holes to permit proper cleaning. ~~(C)~~
- 2) Be constructed and maintained so as to prevent the entrance and harborage of rats, mice, flies, and other vermin. ~~(C)~~

g) Exit corridor walls shall be one ~~(1)~~ hour fire rated

construction. Adjoining open spaces shall not be greater than ~~six hundred (600)~~ square feet. Provide direct visual supervision of these open spaces and equip them with an electrically supervised smoke detection system. (B-~~7~~-G-)

- h) There shall be at least one ~~(1)~~ approved fire extinguisher in all basements, furnace rooms, and kitchens. In addition, there shall be on each floor of the building, extinguishers located so a person will not have to travel more than ~~fifty (50)~~ feet from any point to



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## Section 300.3100(h) (continued)

reach one. They shall be inspected annually and recharged when necessary. The date of checking and recharging shall be recorded on a tag attached to the extinguisher. (B-~~G~~)

- i) Approved containers with proper covers shall be provided for daily storage of rubbish. (B-~~G~~)
- j) Housekeeping throughout the building, including basements, attics, and unoccupied rooms shall be adequately performed to minimize all fire hazards. (B-~~G~~)

- k) Comply with any reasonable additional fire protection measures recommended by the Department over and above these requirements or the Office of the State Fire Marshall if conditions in and around building, including its location, indicate that such additional protection is needed. (B-~~G~~)

- l) Facilities shall have no other business in the building which is unrelated to health care that constitutes a hazard or annoyance to the residents. In any case, the business shall be in a segregated portion of the building and must be approved by the Department. Such approval will be granted only when it can be shown that the business will not interfere in any way with the residents. (A, B, ~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3110 Structural

- a) Buildings and all parts thereof shall be maintained structurally to support all dead, live and lateral loads. (B-~~G~~)

- b) Buildings shall be maintained in good repair. Buildings that show signs of distress shall be repaired immediately. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3120 Mechanical Systems

- a) Mechanical systems shall be maintained to assure proper working order and safe operation. Instructions in the operational use of the systems and equipment must be available at the facility. (B-~~G~~)

- b) Thermal and Acoustical Insulation. It is recommended that insulation

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## Section 300.3120(b) (continued)

be provided for the following:

- 1) Boilers, smoke breeching, and stacks.
  - 2) Steam supply and condensate return piping.
  - 3) Hot water piping above 180°F and all hot water heaters, generators, and converters.
  - 4) Hot water piping above 125°F which is exposed to contact by residents.
  - 5) Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point.
  - 6) Water supply and drainage piping on which condensation may occur.
  - 7) Air ducts and casings with outside surface temperature below ambient dew point.
  - 8) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.
  - 9) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents when such insulation is not necessary for preventing excessive systems heat loss or excessive heat gain.
  - 10) Insulation on cold surfaces shall include an exterior vapor barrier. (G)
  - 11) Insulation including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment shall have a flame spread rating of 25 or less and a smoke developed rating of 150 or less as determined by an independent testing laboratory in accordance with ASTM Standard E 84. Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements where they are located entirely outside of a building or do not penetrate a wall or roof or do not create an exposure hazard. (G)
- c) Steam and Hot Water Systems. It is recommended that supply and return mains and risers for cooling, heating and process steam systems be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends. (G)

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## Section 300.3120 (continued)

## d) Heating, Cooling, and Ventilating Systems

- 1) The heating system shall be capable of maintaining a temperature of 75° Fahrenheit in all resident use spaces. ~~(C)~~
- 2) Auxiliary gas or electric space heaters of an approved closed type may be installed in areas requiring more heat than is produced by the central heating system. Heaters or furnaces of a type to be installed under, in, or on the floor are not permitted. ~~(B, C)~~
- 3) All ventilation supply return and exhaust systems shall be mechanically operated. ~~(C)~~
- 4) The kitchen shall be provided with ventilation for reasonable comfort and with sufficient make-up air for the rangehood exhaust. ~~(B, C)~~
- 5) The laundry shall be provided with ventilation for reasonable comfort with air flowing from clean areas to soiled areas with exhaust to the outdoors. ~~(B, C)~~
- 6) It is recommended that outdoor air intakes be located as far as practical but not less than 15 feet from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems should be located as high as practical but not less than ~~6~~ six feet above ground level, or if installed above the roof, ~~3~~ three feet above roof level. ~~(C)~~
- 7) Air conditioning and ventilating systems shall be maintained to conform to the requirements of NFPA 90A. ~~(A, B, C)~~
- 8) The hood and duct system for cooking equipment shall be in conformance with NFPA 96. That portion of the fire extinguishment system required for protection of the duct system maybe omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratory. ~~(A, B, C)~~
- 9) Boiler rooms and other rooms housing combustion equipment shall be provided with sufficient outdoor air to maintain proper combustion rates. ~~(A, B, C)~~

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## Section 300.3120(d) (continued)

- 10) A capability shall be provided to maintain a temperature of at least ~~fifty-five~~ ~~(55)~~ degrees Fahrenheit for at least ~~twelve~~ ~~(12)~~ hours when the normal source of electrical power is interrupted. ~~(A, B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3130 Plumbing Systems

- a)
  - 1) All plumbing systems shall be designed and installed in accordance with the requirements of the Illinois Plumbing Code (77 Ill. Adm. Code 890) except that the number of water closets, lavatories, bath tubs, showers and other fixtures shall be as required by these Requirements and the facility program. ~~(B, C)~~
  - 2) New and replacement equipment, fixtures and fittings for mechanical, plumbing and electrical systems shall conform to and be installed in accordance with Subpart N of these standards.
- b) Plumbing Fixtures
  - 1) Plumbing fixtures shall be of nonabsorptive acid-resistant materials and shall be kept in good repair. ~~(C)~~
  - 2) Clinical rim flush sinks shall have an integral trap in which the upper portion of the trap seal provides a visible water surface. ~~(C)~~
  - 3) The kitchen shall be equipped with a two ~~(2)~~ compartment sink for washing pots and pans. One ~~(1)~~ compartment shall contain no less than ~~fourteen~~ ~~(14)~~ inches depth of 170°F. water. A commercial type dishwasher is recommended. ~~(C)~~
  - 4) When existing showers or tubs are replaced or additional showers or tubs provided, the shower bases and tub bottoms shall be provided with nonslip surfaces.
- c) Water Supply Systems
  - 1) Water supply systems shall be designed to supply potable water at sufficient pressure and volume to operate all plumbing fixtures and equipment during maximum demand periods. ~~(C)~~



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## Section 300.3130(c) (continued)

- 2) It is recommended that each water service main, branch main, riser and branch to a group of fixtures be valved. Stop valves should be provided at each fixture.
- 3) Hot water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. (B-~~6~~)
- 4) Hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees F. (A, B-~~6~~)
- 5) Protective measures, such as but not limited to, installation of a mixing valve, limited access to controls, and checking water temperatures daily at various points, shall be implemented to insure that the temperature of hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees F. (A, B-~~6~~)
- d) Hot Water Heaters and Tanks. Water storage tanks shall be fabricated of or corrosion resistant metal or lined with noncorrosive material. (C-~~6~~)
- e) Drainage Systems. Special precautions shall be taken to protect food preparation, serving or storage areas from possible leakage or condensation from necessary overhead piping systems. (B-~~6~~)
- f) Fire Extinguishment Systems. All fire extinguishment systems shall be designed and installed in accordance with NFPA 101 and NFPA 13. All fire extinguishment systems shall be maintained in accordance with NFPA 13A. (A, B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3140 Electrical Requirements

- a) The electrical installation for existing facilities shall continue to meet all the requirements of the National Electrical Code, effective at the time of approval by the Department of final drawings and specification or the inspection of the building. (A, B-~~6~~)
- b) Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. Overload protective devices shall be suitable for

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## Section 300.3140(b) (continued)

- operating properly in ambient temperature conditions. (C-~~6~~)
- c) Lighting.
  - 1) All spaces occupied by people, machinery, or equipment within buildings, approaches to buildings, and parking lots shall have lighting. (C-~~6~~)
  - 2) Resident's rooms shall have general lighting. A reading light shall be provided for each resident. (C-~~6~~)
  - d) Receptacles Convenience Outlets. Each resident room shall have adequate duplex type receptacles. (C-~~6~~)
  - e) Nurses' Calling System.
    - 1) In resident areas, each room shall be served by at least one calling station and each bed shall be provided with a call station. One call station may serve two adjacent beds. Call shall register at a central station serving the floor. In intermediate facilities only, an intercommunication system which provides only voice communication between a resident room and the nurses' station will be approved by the Department. (B-~~6~~)
    - 2) A nurses' call emergency station shall be provided for residents' use at each resident's toilet, bath, and shower location. The cord shall be long enough to reach within ~~6~~" six inches of the floor. See Section 300.3140 (e)(1) for exception of intermediate facilities only. (B-~~6~~)
  - f) Door Alarm System. See Section 300.3100(d)(2). (B-~~6~~)
  - g) Fire Alarm System
    - 1) A manually-operated, electrically-supervised fire alarm system shall be installed. Pre-signal systems are not permitted. (A, B-~~6~~)
    - 2) There shall be an approved fire detection and alarm system throughout the facility. (A, B-~~6~~)
    - 3) The fire alarm signals shall automatically transmit the alarm to any available municipal fire department by direct private line or through an approved central station. (A, B-~~6~~)

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## Section 300.3140(g) (continued)

- 4) Fire alarms shall be activated by manual stations and all detection systems and flow alarm devices and sprinkler systems. (A, ~~B-G~~)

h) Emergency Electrical Requirements (~~B-G~~)

- 1) To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power. (~~B-G~~)
- 2) The source of this emergency electrical service shall be one of the following: (~~B-G~~)

- A) An emergency generating set when the normal service is supplied by only one central station transmission line.
- B) Automatic battery operated systems or equipment that will be effective four ~~(4)~~ or more hours and will be capable of supplying power for lighting for exit signs, exit corridors, stairways, nurses' stations, communication system, and all alarm systems, including the nurses' call system.
- C) An approved dual source of normal power. Such a dual source of normal power shall consist of two ~~(2)~~ or more electrical services fed from separate generator sets or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the facility and the generating sources will not likely cause an interruption of more than one of the facility service feeders. An automatic transfer switch is required between the facility service feeders.
- 3) Provide emergency electrical service for: (~~B-G~~)
- A) illumination of means of egress as necessary for corridors, passageways, stairways, landings and exit doors and all ways of approach to and through exits including outside lights,
- B) exit signs and exit directional signs,
- C) fire alarm systems and detection systems,

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## Section 300.3140(h)(3) (continued)

- D) communication systems which are used for issuing instructions,
- E) task illumination in the nurses station.
- F) nurse call system.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART P: RESIDENT'S RIGHTS

## Section 300.3210 General

- a) NO RESIDENT SHALL BE DEPRIVED OF ANY RIGHTS, BENEFITS, OR PRIVILEGES GUARANTEED BY LAW BASED ON THEIR STATUS AS A RESIDENT OF A FACILITY. (A, ~~B-G~~) (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-101)
- b) A RESIDENT SHALL BE PERMITTED TO RETAIN AND USE OR WEAR HIS PERSONAL PROPERTY IN HIS IMMEDIATE LIVING QUARTERS, UNLESS DEEMED MEDICALLY INAPPROPRIATE BY A PHYSICIAN AND SO DOCUMENTED IN THE RESIDENT'S CLINICAL RECORD. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-103)
- c) IF CLOTHING IS PROVIDED TO THE RESIDENT BY THE FACILITY IT SHALL BE OF A PROPER FIT. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-103)
- d) THE FACILITY SHALL PROVIDE ADEQUATE AND CONVENIENT STORAGE SPACE FOR THE PERSONAL PROPERTY OF THE RESIDENT. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-103)
- e) THE FACILITY SHALL PROVIDE A MEANS OF SAFEGUARDING SMALL ITEMS OF VALUE FOR ITS RESIDENTS IN THEIR ROOMS OR IN ANY OTHER PART OF THE FACILITY SO LONG AS THE RESIDENTS HAVE DAILY ACCESS TO SUCH VALUABLES. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-103)
- f) THE FACILITY SHALL DEVELOP PROCEDURES FOR INVESTIGATING COMPLAINTS CONCERNING THEFT OR RESIDENT'S PROPERTY AND SHALL PROMPTLY INVESTIGATE ALL SUCH COMPLAINTS. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-103)
- g) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT MARRIED RESIDENTS RESIDING IN THE SAME FACILITY BE ALLOWED TO RESIDE IN THE SAME ROOM WITHIN THE FACILITY UNLESS THERE IS NO ROOM AVAILABLE IN THE FACILITY



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## Section 300.3210(g) (continued)

## Section 300.3210(o) (continued)

OR IT IS DEEMED MEDICALLY INADVISABLE BY THE RESIDENT'S ATTENDING PHYSICIAN AND SO DOCUMENTED IN THE RESIDENT'S MEDICAL RECORDS.

FACILITY UNDER THE CONTROL OF A RECEIVER. ~~(G)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-503)

~~(G)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-108(e))

(Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

- h) There shall be no traffic through a resident's room to reach any other area of the building. ~~(B-6)~~

- i) Children under ~~sixteen~~ ~~(16)~~ years of age who are related to employees or owners of a facility, and who are not themselves employees of the facility, shall be restricted to quarters reserved for family or employee use except during times when such children are part of a group visiting the facility as part of a planned program, or similar activity. ~~(G)~~

- j) A RESIDENT MAY REFUSE TO PERFORM LABOR FOR A FACILITY. ~~(G)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-113)

- k) A RESIDENT SHALL BE PERMITTED THE FREE EXERCISE OF RELIGION. UPON A RESIDENT'S REQUEST, AND IF NECESSARY AT HIS EXPENSE, THE FACILITY ADMINISTRATOR SHALL MAKE ARRANGEMENTS FOR A RESIDENT'S ATTENDANCE AT RELIGIOUS SERVICES OF THE RESIDENT'S CHOICE. HOWEVER, NO RELIGIOUS BELIEFS OR PRACTICES, OR ATTENDANCE AT RELIGIOUS SERVICES, MAY BE IMPOSED UPON ANY RESIDENT. ~~(G)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-109)

- l) All facilities shall comply with the "Illinois Election Code" as it pertains to absentee voting for residents of licensed long-term care facilities. ~~(G)~~

- m) The facility shall immediately notify the resident's next of kin, representative and physician of the resident's death or when the resident's death appears to be imminent. ~~(G)~~

- n) The facility shall also immediately notify the resident's family, guardian, representative, conservator and any private or public agency financially responsible for the resident's care whenever unusual circumstances such as accidents, sudden illness, disease, unexplained absences, extraordinary resident charges, billings, or related administrative matters arise. ~~(B-6)~~

- o) WHERE A RESIDENT, A RESIDENT'S REPRESENTATIVE OR A RESIDENT'S NEXT OF KIN BELIEVES THAT AN EMERGENCY EXISTS EACH OF THEM, COLLECTIVELY OR SEPARATELY, MAY FILE A VERIFIED PETITION TO THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE FACILITY IS LOCATED FOR AN ORDER PLACING THE

## Section 300.3220 Medical and Personal Care Program

- a) A RESIDENT SHALL BE PERMITTED TO RETAIN THE SERVICES OF HIS OWN PERSONAL PHYSICIAN AT HIS OWN EXPENSE UNDER AN INDIVIDUAL OR GROUP PLAN OF HEALTH INSURANCE OR UNDER ANY PUBLIC OR PRIVATE ASSISTANCE PROGRAM PROVIDING SUCH COVERAGE. ~~(B-6)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-104(a))

- b) THE DEPARTMENT SHALL NOT PRESCRIBE THE COURSE OF MEDICAL TREATMENT PROVIDED TO AN INDIVIDUAL RESIDENT BY THE RESIDENT'S PHYSICIAN IN A FACILITY. ~~(G)~~

- c) EVERY RESIDENT SHALL BE PERMITTED TO OBTAIN FROM HIS OWN PHYSICIAN OR THE PHYSICIAN ATTACHED TO THE FACILITY COMPLETE AND CURRENT INFORMATION CONCERNING HIS MEDICAL DIAGNOSIS, TREATMENT AND PROGNOSIS IN TERMS AND LANGUAGE THE RESIDENT CAN REASONABLY BE EXPECTED TO UNDERSTAND. ~~(G)~~

- d) EVERY RESIDENT SHALL BE PERMITTED TO PARTICIPATE IN THE PLANNING OF HIS TOTAL CARE AND MEDICAL TREATMENT TO THE EXTENT THAT HIS CONDITION PERMITS. ~~(G)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-104(a))

- e) NO RESIDENT SHALL BE SUBJECTED TO EXPERIMENTAL RESEARCH OR TREATMENT WITHOUT FIRST OBTAINING HIS INFORMED, WRITTEN CONSENT. THE CONDUCT OF ANY EXPERIMENTAL RESEARCH OR TREATMENT SHALL BE AUTHORIZED AND MONITORED BY AN INSTITUTIONAL REVIEW COMMITTEE APPOINTED BY THE ADMINISTRATOR OF THE FACILITY WHERE SUCH RESEARCH AND TREATMENT IS CONDUCTED. ~~(A, B-6)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-104(a))

- f) EVERY RESIDENT SHALL BE PERMITTED TO REFUSE MEDICAL TREATMENT AND TO KNOW THE CONSEQUENCES OF SUCH ACTION, UNLESS SUCH REFUSAL WOULD BE HARMFUL TO THE HEALTH AND SAFETY OF OTHERS AND SUCH HARM IS DOCUMENTED BY A PHYSICIAN IN THE RESIDENT'S CLINICAL RECORD. ~~(B-6)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-104(b))

- g) 1) EVERY RESIDENT, RESIDENT'S GUARDIAN, OR PARENT IF THE RESIDENT

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## Section 300.3220(g)(1) (continued)

IS A MINOR SHALL BE PERMITTED TO INSPECT AND COPY ALL HIS CLINICAL AND OTHER RECORDS CONCERNING HIS CARE AND MAINTENANCE KEPT BY THE FACILITY OR BY HIS PHYSICIAN ~~(see Section 2-104(c) of the Act)~~. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-104(c)).

- 2) EVERY RESIDENT'S REPRESENTATIVE SHALL BE PERMITTED TO INSPECT AND COPY THE RESIDENT'S RECORDS. A "RESIDENT'S REPRESENTATIVE" IS A PERSON, OTHER THAN THE OWNER OR AGENT OR EMPLOYEE OF A FACILITY WHO IS NOT RELATED TO THE RESIDENT, DESIGNATED IN WRITING BY A RESIDENT TO BE HIS REPRESENTATIVE, OR THE RESIDENT'S GUARDIAN, OR THE PARENT OF A MINOR RESIDENT FOR WHOM NO GUARDIAN HAS BEEN APPOINTED (see Sections 2-202(h) and 1-123 of the Act). ~~(C)~~

- h) A RESIDENT SHALL BE PERMITTED RESPECT AND PRIVACY IN HIS MEDICAL AND PERSONAL CARE PROGRAM. EVERY RESIDENT'S CASE DISCUSSION, CONSULTATION, EXAMINATION AND TREATMENT SHALL BE CONFIDENTIAL AND SHALL BE CONDUCTED DISCREETLY, AND THOSE PERSONS NOT DIRECTLY INVOLVED IN THE RESIDENT'S CARE MUST HAVE HIS PERMISSION TO BE PRESENT. ~~(B, C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-105)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3230 Restraints

- a) NEITHER PHYSICAL RESTRAINTS NOR CONFINEMENTS SHALL BE EMPLOYED FOR THE PURPOSE OF PUNISHMENT OR FOR THE CONVENIENCE OF ANY FACILITY PERSONNEL. NO PHYSICAL RESTRAINTS OR CONFINEMENTS SHALL BE EMPLOYED EXCEPT AS ORDERED BY A PHYSICIAN WHO DOCUMENTS THE NEED FOR SUCH RESTRAINTS OR CONFINEMENTS IN THE RESIDENT'S CLINICAL RECORD. ~~(B, C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-106)

- b) Restraints and confinements may be employed only when necessary to prevent a resident from injuring himself or others. The physician's written authorization shall specify the precise time periods and conditions in which any restraints and confinements shall be employed. ~~(B, C)~~

- c) No chemical, medication or tranquilizer shall be employed by a facility as a restraint or confinement in lieu of or in addition to any physical restraint or confinement. Such chemicals, medications or tranquilizers may only be employed as part of a duly prescribed

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## Section 300.3230(c) (continued)

therapeutic medical treatment program authorized by the resident's physician and documented in the resident's clinical record. ~~(B, C)~~

- d) No resident shall be subjected to any behavior modification program which utilizes restraints, confinements, or adverse stimuli of any nature unless and until the informed consent of such resident, resident's guardian, or parent of a minor resident has been obtained. ~~(B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3240 Abuse and Neglect

- a) AN OWNER, LICENSEE, ADMINISTRATOR, EMPLOYEE OR AGENT OF A FACILITY SHALL NOT ABUSE OR NEGLECT A RESIDENT. ~~(A, B, C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-107)
- b) A FACILITY EMPLOYEE OR AGENT WHO BECOMES AWARE OF ABUSE OR NEGLECT OF A RESIDENT SHALL IMMEDIATELY REPORT THE MATTER TO THE FACILITY ADMINISTRATOR. ~~(C)~~

- c) A FACILITY ADMINISTRATOR WHO BECOMES AWARE OF ABUSE OR NEGLECT OF A RESIDENT SHALL IMMEDIATELY REPORT THE MATTER BY TELEPHONE AND IN WRITING TO THE RESIDENT'S REPRESENTATIVE, AND ~~OR IF HE IS NOT AVAILABLE THEN~~ TO THE DEPARTMENT. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3250 Communication and Visitation

- a) EVERY RESIDENT SHALL BE PERMITTED UNIMPEDED, PRIVATE AND UNCENSORED COMMUNICATION OF HIS CHOICE BY MAIL, PUBLIC TELEPHONE OR VISITATION. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-108)

- b) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT CORRESPONDENCE IS CONVENIENTLY RECEIVED AND MAILED, AND THAT TELEPHONES ARE REASONABLY ACCESSIBLE. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-108(a))

- c) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT RESIDENTS MAY HAVE PRIVATE VISITS AT ANY REASONABLE HOUR UNLESS SUCH VISITS ARE NOT MEDICALLY ADVISABLE FOR THE RESIDENT AS DOCUMENTED IN THE RESIDENT'S CLINICAL RECORD BY THE RESIDENT'S PHYSICIAN. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-108(a))



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## Section 300.3250 (continued)

- d) The facility shall allow daily visiting between 10 A.M. and 8 P.M. These visiting hours shall be posted in plain view of visitors. ~~(C)~~
- e) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT SPACE FOR VISITS IS AVAILABLE AND THAT FACILITY PERSONNEL KNOCK, EXCEPT IN AN EMERGENCY, BEFORE ENTERING ANY RESIDENT'S ROOM. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-108(c))
- f) UNIMPEDED, PRIVATE AND UNCENSORED COMMUNICATION BY MAIL, PUBLIC TELEPHONE, AND VISITATION MAY BE REASONABLE RESTRICTED BY A PHYSICIAN ONLY IN ORDER TO PROTECT THE RESIDENT OR OTHERS FROM HARM, HARASSMENT OR INTIMIDATION PROVIDED THAT THE REASON FOR ANY SUCH RESTRICTION IS PLACED IN THE RESIDENT'S CLINICAL RECORD BY THE PHYSICIAN AND THAT NOTICE OF SUCH RESTRICTION SHALL BE GIVEN TO ALL RESIDENTS UPON ADMISSION. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-108(d))
- g) Notwithstanding ~~regulation~~ subsection (f) of this Section ~~above~~, ALL LETTERS ADDRESSED BY A RESIDENT TO THE GOVERNOR, MEMBERS OF THE GENERAL ASSEMBLY, ATTORNEY GENERAL, JUDGES, STATE'S ATTORNEYS, OFFICERS OF THE DEPARTMENT, OR LICENSED ATTORNEYS AT LAW SHALL BE FORWARDED AT ONCE TO THE PERSONS TO WHOM THEY ARE ADDRESSED WITHOUT EXAMINATION BY FACILITY PERSONNEL. LETTERS IN REPLY FROM THE OFFICIALS AND ATTORNEYS MENTIONED ABOVE SHALL BE DELIVERED TO THE RECIPIENT WITHOUT EXAMINATION BY FACILITY PERSONNEL. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-108(d))
- h) ANY EMPLOYEE OR AGENT OF A PUBLIC AGENCY, ANY REPRESENTATIVE OF A COMMUNITY LEGAL SERVICES PROGRAM OR ANY MEMBER OF A COMMUNITY ORGANIZATION SHALL BE PERMITTED ACCESS AT REASONABLE HOURS TO ANY INDIVIDUAL RESIDENT OR ANY FACILITY, IF THE PURPOSE OF SUCH AGENCY, PROGRAM OR ORGANIZATION INCLUDES RENDERING ASSISTANCE TO RESIDENTS WITHOUT CHARGE, BUT ONLY IF THERE IS NEITHER A COMMERCIAL PURPOSE NOR AFFECT TO SUCH ACCESS AND IF THE PURPOSE IS TO DO ANY OTHER THE FOLLOWING:
- 1) VISIT, TALK WITH AND MAKE PERSONAL, SOCIAL, AND LEGAL SERVICES AVAILABLE TO ALL RESIDENTS; ~~(C)~~
  - 2) INFORM RESIDENTS OF THEIR RIGHTS AND ENTITLEMENTS AND THEIR CORRESPONDING OBLIGATIONS, UNDER FEDERAL AND STATE LAWS, BY MEANS OF EDUCATIONAL MATERIALS AND DISCUSSIONS IN GROUPS AND WITH INDIVIDUAL RESIDENTS; ~~(C)~~

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## Section 300.3250(h) (continued)

- 3) ASSIST RESIDENTS IN ASSERTING THEIR LEGAL RIGHTS REGARDING CLAIMS FOR PUBLIC ASSISTANCE, MEDICAL ASSISTANCE AND SOCIAL SECURITY BENEFITS, AS WELL AS IN ALL OTHER MATTERS IN WHICH RESIDENTS ARE AGGRIEVED. ASSISTANCE MAY INCLUDE COUNSELING AND LITIGATION; OR ~~(C)~~
  - 4) ENGAGE IN OTHER METHODS OF ASSERTING, ADVISING AND REPRESENTING RESIDENTS SO AS TO EXTEND TO THEM FULL ENJOYMENT OF THEIR RIGHTS. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-110(a))
  - i) NO VISITOR SHALL ENTER THE IMMEDIATE LIVING AREA OF ANY RESIDENT WITHOUT FIRST IDENTIFYING HIMSELF AND THEN RECEIVING PERMISSION FROM THE RESIDENT TO ENTER. THE RIGHTS OF OTHER RESIDENTS PRESENT IN THE ROOM SHALL BE RESPECTED. (B, ~~C~~) (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-110(b))
  - j) A RESIDENT MAY TERMINATE AT ANY TIME A VISIT BY A PERSON HAVING ACCESS TO THE RESIDENT'S LIVING AREA. ~~(C)~~ (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4152-110(b))
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 300.3260 Resident's Funds
- a) A RESIDENT SHALL BE PERMITTED TO MANAGE HIS OWN FINANCIAL AFFAIRS UNLESS HE OR HIS GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT, AUTHORIZES THE ADMINISTRATOR OF THE FACILITY IN WRITING TO MANAGE SUCH RESIDENT'S FINANCIAL AFFAIRS UNDER SUBSECTIONS (b) THROUGH (n) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-102)
  - b) THE FACILITY SHALL AT THE TIME OF ADMISSION, PROVIDE, IN ORDER OF PRIORITY, EACH RESIDENT, OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, WITH A WRITTEN STATEMENT EXPLAINING THE RESIDENT'S RIGHTS REGARDING PERSONAL FUNDS AND LISTING THE SERVICES FOR WHICH THE RESIDENT WILL BE CHARGED, AND OBTAIN A SIGNED ACKNOWLEDGEMENT FROM EACH RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, THAT SUCH PERSON HAS RECEIVED THE STATEMENT. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(1))
  - c) THE FACILITY MAY ACCEPT FUNDS FROM A RESIDENT FOR SAFEKEEPING AND MANAGING, IF IT RECEIVES WRITTEN AUTHORIZATION FROM, IN ORDER OF

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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3260(c) (continued)

PRIORITY, THE RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY; SUCH AUTHORIZATION SHALL BE ATTESTED TO BY A WITNESS WHO HAS NO PECUNIARY INTEREST IN THE FACILITY OR ITS OPERATIONS, AND WHO IS NOT CONNECTED IN ANY WAY TO FACILITY PERSONNEL OR THE ADMINISTRATOR IN ANY MANNER WHATSOEVER. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(2))

d) THE FACILITY SHALL MAINTAIN AND ALLOW, IN ORDER OF PRIORITY, EACH RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, ACCESS TO A WRITTEN RECORD OF ALL FINANCIAL ARRANGEMENTS AND TRANSACTIONS INVOLVING THE INDIVIDUAL RESIDENT'S FUNDS. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(3))

e) THE FACILITY SHALL PROVIDE, IN ORDER OF PRIORITY, EACH RESIDENT, OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, WITH A WRITTEN ITEMIZED STATEMENT AT LEAST QUARTERLY, OF ALL FINANCIAL TRANSACTIONS INVOLVING THE RESIDENT'S FUNDS. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(4))

f) THE FACILITY SHALL PURCHASE A SURETY BOND TO GUARANTEE THE SECURITY OF RESIDENT'S FUNDS. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(5))

g) THE FACILITY SHALL KEEP ANY FUNDS RECEIVED FROM A RESIDENT FOR SAFEKEEPING IN AN ACCOUNT SEPARATE FROM THE FACILITY'S FUNDS, AND SHALL AT NO TIME WITHDRAW ANY PART OR ALL OF SUCH FUNDS FOR ANY PURPOSE OTHER THAN TO RETURN THE FUNDS TO THE RESIDENT UPON THE REQUEST OF THE RESIDENT OR ANY OTHER PERSON ENTITLED TO MAKE SUCH REQUEST, TO PAY THE RESIDENT HIS ALLOWANCE, OR TO MAKE ANY OTHER PAYMENT AUTHORIZED BY THE RESIDENT OR ANY OTHER PERSON ENTITLED TO MAKE SUCH AUTHORIZATION. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(6))

h) THE FACILITY SHALL DEPOSIT ANY FUNDS RECEIVED FROM A RESIDENT IN EXCESS OF \$100 IN AN INTEREST BEARING ACCOUNT INSURED BY AGENCIES OF, OR CORPORATIONS CHARTERED BY, THE STATE OR FEDERAL GOVERNMENT. THE ACCOUNT SHALL BE IN A FORM WHICH CLEARLY INDICATES THAT THE FACILITY HAS ONLY A FIDUCIARY INTEREST IN THE FUNDS AND ANY INTEREST FROM THE ACCOUNT SHALL ACCRUE TO THE RESIDENT. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(7))

i) THE FACILITY MAY KEEP UP TO \$100 OF A RESIDENT'S MONEY IN A NON-INTEREST BEARING ACCOUNT OR PETTY CASH FUND, TO BE READILY

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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3260(i) (continued)

AVAILABLE FOR THE RESIDENT'S CURRENT EXPENDITURES. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(7))

j) THE FACILITY SHALL RETURN TO THE RESIDENT, OR THE PERSON WHO EXECUTED THE WRITTEN AUTHORIZATION REQUIRED IN SUBSECTION (c) OF THIS SECTION, UPON WRITTEN REQUEST, ALL OR ANY PART OF THE RESIDENT'S FUNDS GIVEN THE FACILITY FOR SAFEKEEPING, INCLUDING THE INTEREST ACCRUED FROM DEPOSITS. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(8))

k) THE FACILITY SHALL PLACE ANY MONTHLY ALLOWANCE TO WHICH A RESIDENT IS ENTITLED IN THAT RESIDENT'S PERSONAL ACCOUNT, OR GIVE IT TO THE RESIDENT, UNLESS THE FACILITY HAS WRITTEN AUTHORIZATION FROM THE RESIDENT OR THE RESIDENT'S GUARDIAN, OR IF THE RESIDENT IS A MINOR, HIS PARENT, TO HANDLE IT DIFFERENTLY. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(9))

l) UNLESS OTHERWISE PROVIDED BY STATE LAW, THE FACILITY SHALL UPON THE DEATH OF A RESIDENT PROVIDE THE EXECUTOR OR ADMINISTRATOR OF THE RESIDENT'S ESTATE WITH A COMPLETE ACCOUNTING OF ALL THE RESIDENT'S PERSONAL PROPERTY, INCLUDING ANY FUNDS OF THE RESIDENT BEING HELD BY THE FACILITY. ~~-(G)-~~ (Ill. Rev. Stat. ~~1987-1985~~, ch. 111 1/2, par. 4152-201(10))

m) IF AN ADULT RESIDENT IS INCAPABLE OF MANAGING HIS FUNDS AND DOES NOT HAVE A RESIDENT'S REPRESENTATIVE GUARDIAN, OR AN IMMEDIATE FAMILY MEMBER THE FACILITY SHALL NOTIFY THE OFFICE OF THE STATE GUARDIAN OF THE GUARDIANSHIP AND ADVOCACY COMMISSION. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(11))

n) IF THE FACILITY IS SOLD, THE SELLER SHALL PROVIDE THE BUYER WITH A WRITTEN VERIFICATION BY A PUBLIC ACCOUNTANT OF ALL RESIDENTS' MONIES AND PROPERTIES BEING TRANSFERRED, AND OBTAIN A SIGNED RECEIPT FROM THE NEW OWNER. ~~-(G)-~~ (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4152-201(12))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3270 Residents' Advisory Council

Each resident shall have the right to participate in a residents' advisory council as indicated in Section 300.640. ~~-(G)-~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 300.3280 Contract With Facility

Each resident shall have the right to contract with the facility as indicated in Section 300.630. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3290 Private Right of Action

- a) EACH RESIDENT SHALL HAVE THE RIGHT TO MAINTAIN A PRIVATE RIGHT OF ACTION AGAINST A FACILITY AS DESCRIBED IN SUBSECTIONS (b) THROUGH (i) OF THIS SECTION ~~BELOW~~.
- b) THE OWNER AND LICENSEE OF A FACILITY ARE LIABLE TO A RESIDENT FOR ANY INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF THEIR AGENTS OR EMPLOYEES WHICH INJURES THE RESIDENT.
- c) THE LICENSEE SHALL PAY ~~3~~ THREE TIMES THE ACTUAL DAMAGES, OR \$500, WHICHEVER IS GREATER, AND COSTS AND ATTORNEY'S FEES TO A FACILITY RESIDENT WHOSE RIGHTS AS SPECIFIED IN PART I OF ARTICLE II OF THE ACT ARE VIOLATED.
- d) A RESIDENT MAY MAINTAIN AN ACTION UNDER THIS ACT AND THIS PART FOR ANY OTHER TYPE OF RELIEF, INCLUDING INJUNCTIVE AND DECLARATORY RELIEF, PERMITTED BY LAW.
- e) ANY DAMAGES RECOVERABLE UNDER SUBSECTIONS (b) THROUGH (i) OF THIS SECTION, INCLUDING MINIMUM DAMAGES AS PROVIDED BY THIS PART, MAY BE RECOVERED IN ANY ACTION WHICH A COURT MAY AUTHORIZE TO BE BROUGHT AS A CLASS ACTION PURSUANT TO THE CIVIL PRACTICE ACT. THE REMEDIES PROVIDED IN SUBSECTIONS (b) THROUGH (i) ARE IN ADDITION TO AND CUMULATIVE WITH ANY OTHER LEGAL REMEDIES AVAILABLE TO A RESIDENT. EXHAUSTION OF ANY AVAILABLE ADMINISTRATIVE REMEDIES SHALL NOT BE REQUIRED PRIOR TO COMMENCEMENT OF A SUIT HEREUNDER.
- f) THE AMOUNT OF DAMAGES RECOVERED BY A RESIDENT IN AN ACTION BROUGHT UNDER SUBSECTION (b) THROUGH (i) SHALL BE EXEMPT FOR PURPOSES OF DETERMINING INITIAL OR CONTINUING ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER "THE ILLINOIS PUBLIC AID CODE," (Ill. Rev. Stat. ~~1993~~ 1987, ch. 23, par. 1-1 et seq.) AS NOW OR HEREAFTER AMENDED, AND SHALL NEITHER BE TAKEN INTO CONSIDERATION NOT REQUIRED TO BE APPLIED TOWARD THE PAYMENT OR PARTIAL PAYMENT OF THE COST OF MEDICAL CARE OR SERVICES AVAILABLE UNDER "THE ILLINOIS PUBLIC AID CODE."
- g) ANY WAIVER BY A RESIDENT OR HIS LEGAL REPRESENTATIVE OF THE RIGHT TO

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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3290(g) (continued)

- h) ANY PARTY TO AN ACTION BROUGHT UNDER SUBSECTIONS (b) THROUGH (i) OF THIS SECTION SHALL BE ENTITLED TO A TRIAL BY JURY AND ANY WAIVER OF THE RIGHT TO A TRIAL BY JURY, WHETHER ORAL OR IN WRITING, PRIOR TO THE COMMENCEMENT OF AN ACTION, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT.
- i) A LICENSEE OR ITS AGENTS OR EMPLOYEES SHALL NOT TRANSFER, DISCHARGE, EVICT, HARASS, DISMISS, OR RETALIATE AGAINST A RESIDENT, A RESIDENT'S REPRESENTATIVE, OR AN EMPLOYEE OR AGENT WHO MAKES A REPORT OF RESIDENT ABUSE OR NEGLECT, BRINGS OR TESTIFIES IN A PRIVATE RIGHT OF ACTION, OR FILES A COMPLAINT, BECAUSE OF THE SUCH ACTION OR TESTIMONY. (B, ~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 300.3300 Transfer ~~and~~ or Discharge

- a) A RESIDENT MAY BE VOLUNTARILY DISCHARGED FROM A FACILITY AFTER HE GIVES THE ADMINISTRATOR, A PHYSICIAN, OR A NURSE OF THE FACILITY WRITTEN NOTICE OF HIS DESIRE TO BE DISCHARGED. IF A GUARDIAN HAS BEEN APPOINTED FOR A RESIDENT OR IF THE RESIDENT IS A MINOR, THE RESIDENT SHALL BE DISCHARGED UPON WRITTEN CONSENT OF HIS GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT UNLESS THERE IS A COURT ORDER TO THE CONTRARY. IN SUCH CASES, UPON THE RESIDENT'S DISCHARGE, THE FACILITY IS RELIEVED FROM ANY RESPONSIBILITY FOR THE RESIDENT'S CARE, SAFETY OR WELL-BEING. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-111)
- b) Each resident's rights regarding involuntary transfer or discharge from a facility shall be as described in subsection (c) through (y) of this Section.
- c) Reasons for Transfer or Discharge
  - 1) A FACILITY MAY INVOLUNTARILY TRANSFER OR DISCHARGE A RESIDENT ONLY FOR ONE OR MORE OF THE FOLLOWING REASONS: ~~SHALL NOT INVOLUNTARILY TRANSFER OR DISCHARGE A RESIDENT EXCEPT~~
    - A) FOR MEDICAL REASONS, ~~1~~
    - B) FOR THE RESIDENT'S PHYSICAL SAFETY. ~~OR~~

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Section 300.3300(c)(1) (continued)

- C) FOR THE PHYSICAL SAFETY OF OTHER RESIDENTS, THE FACILITY STAFF OR FACILITY VISITORS. ~~OR~~
- D) FOR EITHER LATE PAYMENT OR NONPAYMENT FOR THE RESIDENT'S STAY, EXCEPT AS PROHIBITED BY TITLE XVIII AND XIX OF THE FEDERAL SOCIAL SECURITY ACT. FOR PURPOSES OF THIS SECTION, "LATE PAYMENT" MEANS NON-RECEIPT OF PAYMENT AFTER SUBMISSION OF A BILL. IF PAYMENT IS NOT RECEIVED WITHIN 45 DAYS AFTER SUBMISSION OF A BILL, THE FACILITY MAY SEND A NOTICE TO THE RESIDENT AND RESPONSIBLE PARTY REQUESTING PAYMENT WITHIN 30 DAYS. IF PAYMENT IS NOT RECEIVED WITHIN SUCH 30 DAYS, THE FACILITY MAY THEREUPON INSTITUTE TRANSFER OR DISCHARGE PROCEEDINGS BY SENDING A NOTICE OF TRANSFER OR DISCHARGE TO THE RESIDENT AND RESPONSIBLE PARTY BY REGISTERED OR CERTIFIED MAIL. THE NOTICE SHALL STATE, IN ADDITION TO THE REQUIREMENTS OF SECTION 3-403 OF THE ACT and subsection (e) of this Section, THAT THE RESPONSIBLE PARTY HAS THE RIGHT TO PAY THE AMOUNT OF THE BILL IN FULL UP TO THE DATE THE TRANSFER OR DISCHARGE IS TO BE MADE AND THEN THE RESIDENT SHALL HAVE THE RIGHT TO REMAIN IN THE FACILITY. SUCH PAYMENT SHALL TERMINATE THE TRANSFER OR DISCHARGE PROCEEDINGS. THIS SUBSECTION DOES NOT APPLY TO THOSE RESIDENTS WHOSE CARE IS PROVIDED UNDER THE ILLINOIS PUBLIC AID CODE. (B ~~OR~~ C) (11. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-401)

2) Prohibition of Discrimination

- ~~1)~~ A) A FACILITY PARTICIPATING IN THE MEDICAL ASSISTANCE PROGRAM IS PROHIBITED FROM FAILING OR REFUSING TO RETAIN AS A RESIDENT ANY PERSON BECAUSE THE RESIDENT IS A RECIPIENT OF OR AN APPLICANT FOR THE MEDICAL ASSISTANCE PROGRAM. FOR THE PURPOSES OF THIS SECTION, A RECIPIENT OR APPLICANT SHALL BE CONSIDERED A RESIDENT IN THE FACILITY DURING ANY HOSPITAL STAY TOTALING TEN DAYS OR LESS FOLLOWING A HOSPITAL ADMISSION. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-401.1(a)).

- ~~2)~~ B) A FACILITY WHICH VIOLATES SUBSECTION (C)(2)(B) ~~4153-401.1(b)~~ OF THIS SECTION SHALL BE GUILTY OF A BUSINESS OFFENSE AND FINED NOT LESS THAN \$500 NOR MORE THAN \$1,000 FOR THE FIRST OFFENSE AND NOT LESS THAN \$1,000 NOR MORE THAN \$5,000 FOR

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Section 300.3300(c)(2)(B) (continued)

EACH SUBSEQUENT OFFENSE. (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-401.1(b))

- d) INVOLUNTARY TRANSFER OR DISCHARGE OF A RESIDENT FROM A FACILITY SHALL BE PRECEDED BY THE DISCUSSION REQUIRED UNDER SUBSECTION (J) OF THIS SECTION AND BY A MINIMUM WRITTEN NOTICE OF 21 DAYS. THE 21-DAY REQUIREMENT SHALL NOT APPLY IN ANY OF THE FOLLOWING INSTANCES:

- 1) WHEN AN EMERGENCY TRANSFER OR DISCHARGE IS MANDATED BY THE RESIDENT'S HEALTH CARE NEEDS AND IS IN ACCORD WITH THE WRITTEN ORDERS AND MEDICAL JUSTIFICATION OF THE ATTENDING PHYSICIAN; (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-402(a))
- 2) WHEN THE TRANSFER OR DISCHARGE IS MANDATED BY THE PHYSICAL SAFETY OF OTHER RESIDENTS AS DOCUMENTED IN THE CLINICAL RECORD. (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-402(b))
- e) THE NOTICE REQUIRED BY SUBSECTION (d) OF THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND SHALL CONTAIN ALL OF THE FOLLOWING:

- 1) THE STATED REASON FOR THE PROPOSED TRANSFER OR DISCHARGE; ~~4153-403(a)~~ (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(a))
- 2) THE EFFECTIVE DATE OF THE PROPOSED TRANSFER OR DISCHARGE; ~~4153-403(b)~~ (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(b))
- 3) A STATEMENT IN NOT LESS THAN 12-POINT TYPE, WHICH READS: "YOU HAVE A RIGHT TO APPEAL THE FACILITY'S DECISION TO TRANSFER OR DISCHARGE YOU. IF YOU THINK YOU SHOULD NOT HAVE TO LEAVE THIS FACILITY, YOU MAY FILE A REQUEST FOR A HEARING WITH THE DEPARTMENT OF PUBLIC HEALTH WITHIN ~~10~~ TEN DAYS AFTER RECEIVING THIS NOTICE. IF YOU REQUEST A HEARING, IT WILL BE HELD NOT LATER THAN TEN ~~410~~ DAYS AFTER YOUR REQUEST, AND YOU GENERALLY WILL NOT BE TRANSFERRED OR DISCHARGED DURING THAT TIME. IF THE DECISION FOLLOWING THE HEARING IS NOT IN YOUR FAVOR, YOU GENERALLY WILL NOT BE TRANSFERRED OR DISCHARGED PRIOR TO THE EXPIRATION OF 30 DAYS FOLLOWING RECEIPT OF THE ORIGINAL NOTICE OF THE TRANSFER OR DISCHARGE. A FORM TO APPEAL THE FACILITY'S DECISION AND TO REQUEST A HEARING IS ATTACHED. IF YOU HAVE ANY QUESTIONS, CALL THE DEPARTMENT OF PUBLIC HEALTH AT THE TELEPHONE NUMBER LISTED BELOW." ~~411. Rev. Stat. 1985~~ 1987, ch. 111 1/2, par. 4153-403(c))



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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3300(e) (continued)

- 4) A HEARING REQUEST FORM, TOGETHER WITH A POSTAGE PAID, PREADDRESSED ENVELOPE TO THE DEPARTMENT; AND ~~(G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(d))
- 5) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON CHARGED WITH THE RESPONSIBILITY OF SUPERVISING THE TRANSFER OR DISCHARGE. ~~(G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(e))
- f) A REQUEST FOR A HEARING MADE UNDER SUBSECTION (e) OF THIS SECTION SHALL STAY A TRANSFER PENDING A HEARING OR APPEAL OF THE DECISION, UNLESS A CONDITION WHICH WOULD HAVE ALLOWED TRANSFER OR DISCHARGE IN LESS THAN 21 DAYS AS DESCRIBED UNDER SUBSECTIONS (d)(1) AND (2) OF THIS SECTION DEVELOPS IN THE INTERIM. ~~(G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-404)
- g) A COPY OF THE NOTICE REQUIRED BY SUBSECTION (d) OF THIS SECTION SHALL BE PLACED IN THE RESIDENT'S CLINICAL RECORD AND A COPY SHALL BE TRANSMITTED TO THE DEPARTMENT, THE RESIDENT, THE RESIDENT'S REPRESENTATIVE, AND, IF THE RESIDENT'S CARE IS PAID FOR IN WHOLE OR PART THROUGH TITLE XIX, TO THE DEPARTMENT OF PUBLIC AID. ~~(G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-405)
- h) WHEN THE BASIS FOR AN INVOLUNTARY TRANSFER OR DISCHARGE IS THE RESULT OF AN ACTION BY THE DEPARTMENT OF PUBLIC AID WITH RESPECT TO A RECIPIENT OF TITLE XIX AND A HEARING REQUEST IS FILED WITH THE DEPARTMENT OF PUBLIC AID, THE 21-DAY WRITTEN NOTICE PERIOD SHALL NOT BEGIN UNTIL A FINAL DECISION IN THE MATTER IS RENDERED BY THE DEPARTMENT OF PUBLIC AID OR A COURT OF COMPETENT JURISDICTION AND NOTICE OF THAT FINAL DECISION IS RECEIVED BY THE RESIDENT AND THE FACILITY. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-406)
- i) WHEN NONPAYMENT IS THE BASIS FOR INVOLUNTARY TRANSFER OR DISCHARGE, THE RESIDENT SHALL HAVE THE RIGHT TO REDEEM UP TO THE DATE THAT THE DISCHARGE OR TRANSFER IS TO BE MADE AND THEN SHALL HAVE THE RIGHT TO REMAIN IN THE FACILITY. ~~(G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-407)
- j) THE PLANNED INVOLUNTARY TRANSFER OR DISCHARGE SHALL BE DISCUSSED WITH THE RESIDENT, THE RESIDENT'S REPRESENTATIVE AND PERSON OR AGENCY RESPONSIBLE FOR THE RESIDENT'S PLACEMENT, MAINTENANCE, AND CARE IN THE FACILITY. THE EXPLANATION AND DISCUSSION OF THE REASONS FOR INVOLUNTARY TRANSFER OR DISCHARGE SHALL INCLUDE THE FACILITY ADMINISTRATOR OR OTHER APPROPRIATE FACILITY REPRESENTATIVE AS THE ADMINISTRATOR'S DESIGNEE. THE CONTENT OF THE DISCUSSION AND

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3300(j) (continued)

- EXPLANATION SHALL BE SUMMARIZED IN WRITING AND SHALL INCLUDE THE NAMES OF THE INDIVIDUALS INVOLVED IN THE DISCUSSIONS AND MADE A PART OF THE RESIDENT'S CLINICAL RECORD. ~~(G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-408)
- k) THE FACILITY SHALL OFFER THE RESIDENT COUNSELING SERVICES BEFORE THE TRANSFER OR DISCHARGE OF THE RESIDENT. ~~(G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-409)
  - l) A RESIDENT SUBJECT TO INVOLUNTARY TRANSFER OR DISCHARGE FROM A FACILITY, THE RESIDENT'S GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT SHALL HAVE THE OPPORTUNITY TO FILE A REQUEST FOR A HEARING WITH THE DEPARTMENT WITHIN ~~10~~ TEN DAYS FOLLOWING RECEIPT OF THE WRITTEN NOTICE OF THE INVOLUNTARY TRANSFER OR DISCHARGE BY THE FACILITY. ~~(G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-410)
  - m) THE DEPARTMENT OF PUBLIC HEALTH, WHEN THE BASIS FOR INVOLUNTARY TRANSFER OR DISCHARGE IS OTHER THAN ACTION BY THE DEPARTMENT OF PUBLIC AID WITH RESPECT TO THE TITLE XIX MEDICAID RECIPIENT, SHALL HOLD A HEARING AT THE RESIDENT'S FACILITY NOT LATER THAN TEN ~~(10)~~ DAYS AFTER A HEARING REQUEST IS FILED, AND RENDER A DECISION WITHIN 14 DAYS AFTER THE FILING OF THE HEARING REQUEST. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-411)
  - n) THE HEARING BEFORE THE DEPARTMENT PROVIDED UNDER SUBSECTION (m) OF THIS SECTION SHALL BE CONDUCTED AS PRESCRIBED UNDER SECTIONS 3-703 THRU 3-712 OF THE ACT (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-703 through 4153-712). IN DETERMINING WHETHER A TRANSFER OR DISCHARGE IS AUTHORIZED, THE BURDEN OF PROOF IN THIS HEARING RESTS ON THE PERSON REQUESTING THE TRANSFER OR DISCHARGE. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-412)
  - o) IF THE DEPARTMENT DETERMINES THAT A TRANSFER OR DISCHARGE IS AUTHORIZED UNDER SUBSECTION (c) OF THIS SECTION, THE RESIDENT SHALL NOT BE REQUIRED TO LEAVE THE FACILITY BEFORE THE 34th DAY FOLLOWING RECEIPT OF THE NOTICE REQUIRED UNDER SUBSECTION (d) OF THIS SECTION, OR THE ~~10th~~ TENTH DAY FOLLOWING RECEIPT OF THE DEPARTMENT'S DECISION, WHICHEVER IS LATER, UNLESS A CONDITION WHICH WOULD HAVE ALLOWED TRANSFER OR DISCHARGE IN LESS THAN 21 DAYS AS DESCRIBED UNDER SUBSECTIONS (d)(1) AND (2) OF THIS SECTION DEVELOPS IN THE INTERIM. ~~(B-G)~~ (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-413)
  - p) THE DEPARTMENT OF PUBLIC AID SHALL CONTINUE TITLE XIX MEDICAID FUNDING DURING THE APPEAL, TRANSFER, OR DISCHARGE PERIOD FOR THOSE

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## Section 300.3300(p) (continued)

RESIDENTS WHO ARE TITLE XIX RECIPIENTS AFFECTED BY SUBSECTION (c) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-414)

q) THE DEPARTMENT MAY TRANSFER OR DISCHARGE ANY RESIDENT FROM ANY FACILITY REQUIRED TO BE LICENSED UNDER THIS ACT WHEN ANY OF THE FOLLOWING CONDITIONS EXIST:

- 1) SUCH FACILITY IS OPERATING WITHOUT A LICENSE; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(a))
- 2) THE DEPARTMENT HAS SUSPENDED, REVOKED OR REFUSED TO RENEW THE LICENSE OF THE FACILITY AS PROVIDED UNDER SECTION 3-119 OF THE ACT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(b))
- 3) THE FACILITY HAS REQUESTED THE AID OF THE DEPARTMENT IN THE TRANSFER OR DISCHARGE OF THE RESIDENT AND THE DEPARTMENT FINDS THAT THE RESIDENT CONSENTS TO TRANSFER OR DISCHARGE; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(c))
- 4) THE FACILITY IS CLOSING OR INTENDS TO CLOSE AND ADEQUATE ARRANGEMENT FOR RELOCATION OF THE RESIDENT HAS NOT BEEN MADE AT LEAST 30 DAYS PRIOR TO CLOSURE; OR (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(d))
- 5) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS WHICH REQUIRES IMMEDIATE TRANSFER OR DISCHARGE OF THE RESIDENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(e))

r) IN DECIDING TO TRANSFER OR DISCHARGE A RESIDENT FROM A FACILITY UNDER SUBSECTION (q) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER THE LIKELIHOOD OF SERIOUS HARM WHICH MAY RESULT IF THE RESIDENT REMAINS IN THE FACILITY. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-416)

s) THE DEPARTMENT SHALL OFFER TRANSFER OR DISCHARGE AND RELOCATION ASSISTANCE TO RESIDENTS TRANSFERRED OR DISCHARGED UNDER SUBSECTIONS (c) THROUGH (q) OF THIS SECTION INCLUDING INFORMATION ON AVAILABLE ALTERNATIVE PLACEMENTS. RESIDENTS SHALL BE INVOLVED IN PLANNING THE TRANSFER OR DISCHARGE AND SHALL CHOOSE AMONG THE AVAILABLE ALTERNATIVE PLACEMENTS, EXCEPT THAT WHERE AN EMERGENCY MAKES PRIOR RESIDENT INVOLVEMENT IMPOSSIBLE, THE DEPARTMENT MAY MAKE A TEMPORARY PLACEMENT UNTIL A FINAL PLACEMENT CAN BE ARRANGED. RESIDENTS MAY CHOOSE THEIR FINAL ALTERNATIVE PLACEMENT AND SHALL BE GIVEN

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## Section 300.3300(s) (continued)

ASSISTANCE IN TRANSFERRING TO SUCH PLACE. NO RESIDENT MAY BE FORCED TO REMAIN IN A TEMPORARY OR PERMANENT PLACEMENT. WHERE THE DEPARTMENT MAKES OR PARTICIPATES IN MAKING THE RELOCATION DECISION, CONSIDERATION SHALL BE GIVEN TO PROXIMITY TO THE RESIDENT'S RELATIVES AND FRIENDS. THE RESIDENT SHALL BE ALLOWED ~~3~~ THREE VISITS TO POTENTIAL ALTERNATIVE PLACEMENTS PRIOR TO REMOVAL, EXCEPT WHERE MEDICALLY CONTRAINDICATED OR WHERE THE NEED FOR IMMEDIATE TRANSFER OR DISCHARGE REQUIRES REDUCTION IN THE NUMBER OF VISITS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-417)

t) THE DEPARTMENT SHALL PREPARE RESIDENT TRANSFER OR DISCHARGE PLANS TO ASSURE SAFE AND ORDERLY REMOVALS AND PROTECT RESIDENTS' HEALTH, SAFETY, WELFARE AND RIGHTS. IN NONEMERGENCIES AND WHERE POSSIBLE IN EMERGENCIES, THE DEPARTMENT SHALL DESIGN AND IMPLEMENT SUCH PLANS IN ADVANCE OF TRANSFER OR DISCHARGE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-418)

u) THE DEPARTMENT MAY PLACE RELOCATION TEAMS IN ANY FACILITY FROM WHICH RESIDENTS ARE BEING DISCHARGED OR TRANSFERRED FOR ANY REASON, FOR THE PURPOSE OF IMPLEMENTING TRANSFER OR DISCHARGE PLANS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-419)

v) IN ANY TRANSFER OR DISCHARGE CONDUCTED UNDER SUBSECTIONS (q) THROUGH (t) OF THIS SECTION THE DEPARTMENT SHALL:

- 1) PROVIDE WRITTEN NOTICE TO THE FACILITY PRIOR TO THE TRANSFER OR DISCHARGE. THE NOTICE SHALL STATE THE BASIS FOR THE ORDER OF TRANSFER OR DISCHARGE AND SHALL INFORM THE FACILITY OF ITS RIGHT TO AN INFORMAL CONFERENCE PRIOR TO TRANSFER OR DISCHARGE UNDER THIS SECTION, AND ITS RIGHT TO A SUBSEQUENT HEARING UNDER SUBSECTION (x) OF THIS SECTION. IF A FACILITY DESIRES TO CONTEST A NONEMERGENCY TRANSFER OR DISCHARGE, PRIOR TO TRANSFER OR DISCHARGE IT SHALL, WITHIN FOUR ~~(4)~~ WORKING DAYS AFTER RECEIPT OF THE NOTICE, SEND A WRITTEN REQUEST FOR AN INFORMAL CONFERENCE TO THE DEPARTMENT. THE DEPARTMENT SHALL, WITHIN FOUR ~~(4)~~ WORKING DAYS FROM THE RECEIPT OF THE REQUEST, HOLD AN INFORMAL CONFERENCE IN THE COUNTY IN WHICH THE FACILITY IS LOCATED. FOLLOWING THIS CONFERENCE, THE DEPARTMENT MAY AFFIRM, MODIFY OR OVERRULE ITS PREVIOUS DECISION. EXCEPT IN AN EMERGENCY, TRANSFER OR DISCHARGE MAY NOT BEGIN UNTIL THE PERIOD FOR REQUESTING A CONFERENCE HAS PASSED OR, IF A CONFERENCE IS REQUESTED, UNTIL AFTER A CONFERENCE HAS BEEN HELD; AND (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-420(a))

- 2) PROVIDE WRITTEN NOTICE TO ANY RESIDENT TO BE REMOVED, TO THE



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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3300(v)(2) (continued)

RESIDENT'S REPRESENTATIVE, IF ANY, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE, PRIOR TO THE REMOVAL. THE NOTICE SHALL STATE THE REASON FOR WHICH TRANSFER OR DISCHARGE IS ORDERED AND SHALL INFORM THE RESIDENT OF THE RESIDENT'S RIGHT TO CHALLENGE THE TRANSFER OR DISCHARGE UNDER SUBSECTION (x) OF THIS SECTION. THE DEPARTMENT SHALL HOLD AN INFORMAL CONFERENCE WITH THE RESIDENT OR THE RESIDENT'S REPRESENTATIVE PRIOR TO TRANSFER OR DISCHARGE AT WHICH THE RESIDENT OR THE REPRESENTATIVE MAY PRESENT ANY OBJECTIONS TO THE PROPOSED TRANSFER OR DISCHARGE PLAN OR ALTERNATIVE PLACEMENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-420(b))

w) IN ANY TRANSFER OR DISCHARGE CONDUCTED UNDER SUBSECTION (q)(5) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE FACILITY AND ANY RESIDENT TO BE REMOVED THAT AN EMERGENCY HAS BEEN FOUND TO EXIST AND REMOVAL HAS BEEN ORDERED, AND SHALL INVOLVE THE RESIDENTS IN REMOVAL PLANNING IF POSSIBLE. FOLLOWING EMERGENCY REMOVAL, THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO THE FACILITY, TO THE RESIDENT, TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE, OF THE BASIS FOR THE FINDING THAT AN EMERGENCY EXISTED AND OF THE RIGHT TO CHALLENGE REMOVAL UNDER SUBSECTION (x) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-421)

x) WITHIN ~~10~~ TEN DAYS FOLLOWING TRANSFER OR DISCHARGE, THE FACILITY OR ANY RESIDENT TRANSFERRED OR DISCHARGED MAY SEND A WRITTEN REQUEST TO THE DEPARTMENT FOR A HEARING UNDER SECTION 3-703 OF THE ACT (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-703) TO CHALLENGE THE TRANSFER OR DISCHARGE. THE DEPARTMENT SHALL HOLD THE HEARING WITHIN 30 DAYS OF RECEIPT OF THE REQUEST. WHERE A CHALLENGE IS BY A RESIDENT, THE HEARING SHALL BE HELD AT A LOCATION CONVENIENT TO THE RESIDENT. IF THE FACILITY PREVAILS, IT MAY FILE A CLAIM AGAINST THE STATE UNDER THE "COURT OF CLAIMS ACT" FOR PAYMENTS LOSS LESS EXPENSES SAVED AS A RESULT OF THE TRANSFER OR DISCHARGE. NO RESIDENT TRANSFERRED OR DISCHARGED MAY BE HELD LIABLE FOR THE CHARGE FOR CARE WHICH WOULD HAVE BEEN MADE HAD THE RESIDENT REMAINED IN THE FACILITY. IF A RESIDENT PREVAILS, THE RESIDENT MAY FILE A CLAIM AGAINST THE STATE UNDER THE "COURT OF CLAIMS ACT" (Ill. Rev. Stat. ~~1985~~ 1987, ch. 37, pars. 439.1 et seq.) FOR ANY EXCESS EXPENSES DIRECTLY CAUSED BY THE ORDER TO TRANSFER OR DISCHARGE. THE DEPARTMENT SHALL ASSIST THE RESIDENT IN RETURNING TO THE FACILITY IF ASSISTANCE IS REQUESTED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-422)

y) ANY OWNER OF A FACILITY LICENSED UNDER THIS ACT SHALL GIVE 90 DAYS

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## Section 300.3300(y) (continued)

NOTICE PRIOR TO VOLUNTARILY CLOSING A FACILITY OR CLOSING ANY PART OF A FACILITY, OR PRIOR TO CLOSING ANY PART OF A FACILITY IF CLOSING SUCH PART WILL REQUIRE THE TRANSFER OR DISCHARGE OF MORE THAN ~~10%~~ TEN PER CENT OF THE RESIDENTS. SUCH NOTICE SHALL BE GIVEN TO THE DEPARTMENT, TO ANY RESIDENT WHO MUST BE TRANSFERRED OR DISCHARGED, TO THE RESIDENT'S REPRESENTATIVE, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE. NOTICE SHALL STATE THE PROPOSED DATE OF CLOSING AND THE REASON FOR CLOSING. THE FACILITY SHALL OFFER TO ASSIST THE RESIDENT IN SECURING AN ALTERNATIVE PLACEMENT AND SHALL ADVISE THE RESIDENT ON AVAILABLE ALTERNATIVES. WHERE THE RESIDENT IS UNABLE TO CHOOSE AN ALTERNATE PLACEMENT AND IS NOT UNDER GUARDIANSHIP, THE DEPARTMENT SHALL BE NOTIFIED OF THE NEED FOR RELOCATION ASSISTANCE. THE FACILITY SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS UNTIL THE DATE OF CLOSING, INCLUDING THOSE RELATED TO TRANSFER OR DISCHARGE OF RESIDENTS. THE DEPARTMENT MAY PLACE A RELOCATION TEAM IN THE FACILITY AS PROVIDED UNDER SUBSECTION (u) OF THIS SECTION. (A, B ~~1985~~ 1987, ch. 111 1/2, par. 4153-423)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3310 Complaint Procedures

- a) A RESIDENT SHALL BE PERMITTED TO PRESENT GRIEVANCES ON BEHALF OF HIMSELF AND OTHERS TO THE ADMINISTRATOR, THE LONG-TERM CARE FACILITY ADVISORY BOARD, THE RESIDENTS' ADVISORY COUNCIL, STATE GOVERNMENTAL AGENCIES OR OTHER PERSONS WITHOUT THREAT OF DISCHARGE OR REPRISAL IN ANY FORM OR MANNER WHATSOEVER. ~~(G)~~
- b) THE FACILITY ADMINISTRATOR SHALL PROVIDE ALL RESIDENTS OR THEIR REPRESENTATIVES WITH THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE APPROPRIATE STATE GOVERNMENTAL OFFICE WHERE COMPLAINTS MAY BE LODGED. ~~(G)~~
- c) A PERSON WHO BELIEVES THAT THE ACT OR A RULE PROMULGATED UNDER THE ACT MAY HAVE BEEN VIOLATED MAY REQUEST AN INVESTIGATION. THE REQUEST MAY BE SUBMITTED TO THE DEPARTMENT IN WRITING, BY TELEPHONE, OR BY PERSONAL VISIT. AN ORAL COMPLAINT SHALL BE REDUCED TO WRITING BY THE DEPARTMENT.
- d) THE SUBSTANCE OF THE COMPLAINT SHALL BE PROVIDED TO THE LICENSEE, OWNER OR ADMINISTRATOR NO EARLIER THAN AT THE COMMENCEMENT OF THE ON-SITE INSPECTION OF THE FACILITY WHICH TAKES PLACE PURSUANT TO THE COMPLAINT.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3310 (continued)

e) THE DEPARTMENT SHALL NOT DISCLOSE THE NAME OF THE COMPLAINANT UNLESS THE COMPLAINANT CONSENTS IN WRITING TO THE DISCLOSURE OR THE INVESTIGATION RESULTS IN A JUDICIAL PROCEEDING, OR UNLESS DISCLOSURE IS ESSENTIAL TO THE INVESTIGATION. THE COMPLAINANT SHALL BE GIVEN THE OPPORTUNITY TO WITHDRAW THE COMPLAINT BEFORE DISCLOSURE. UPON THE REQUEST OF THE COMPLAINANT, THE DEPARTMENT MAY PERMIT THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT TO ACCOMPANY THE PERSON MAKING THE ON-SITE INSPECTION OF THE FACILITY.

f) UPON RECEIPT OF A COMPLAINT, THE DEPARTMENT SHALL DETERMINE WHETHER THE ACT OR A RULE PROMULGATED UNDER THE ACT HAS BEEN OR IS BEING VIOLATED. THE DEPARTMENT SHALL INVESTIGATE ALL COMPLAINTS ALLEGING ABUSE OR NEGLECT WITHIN ~~7~~ SEVEN DAYS AFTER THE RECEIPT OF THE COMPLAINT EXCEPT THE COMPLAINTS OF ABUSE OR NEGLECT WHICH INDICATE THAT A RESIDENT'S LIFE OR SAFETY IS IN IMMINENT DANGER SHALL BE INVESTIGATED WITH 24 HOURS AFTER RECEIPT OF THE COMPLAINT. ALL OTHER COMPLAINTS SHALL BE INVESTIGATED WITHIN 30 DAYS AFTER THE RECEIPT OF THE COMPLAINT. ALL COMPLAINTS SHALL BE CLASSIFIED AS "VALID" OR "INVALID". FOR ANY COMPLAINT CLASSIFIED AS "VALID", THE DEPARTMENT MUST DETERMINE WITHIN 30 WORKING DAYS IF ANY RULE OR PROVISION OF THIS ACT HAS BEEN OR IS BEING VIOLATED.

g) UPON THE REQUEST OF A RESIDENT OR COMPLAINANT, THE DEPARTMENT MAY PERMIT THE RESIDENT OR COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT TO ACCOMPANY THE PERSON MAKING THE ON-SITE INSPECTION OF THE FACILITY PURSUANT TO THE COMPLAINT.

h) IN ALL CASES, THE DEPARTMENT SHALL INFORM THE COMPLAINANT OF ITS FINDINGS WITHIN ~~10~~ TEN DAYS OF ITS DETERMINATION UNLESS OTHERWISE INDICATED BY THE COMPLAINANT, AND THE COMPLAINANT MAY DIRECT THE DEPARTMENT TO SEND A COPY OF SUCH FINDINGS TO ANOTHER PERSON. THE DEPARTMENT'S FINDINGS MAY INCLUDE CONTENTS OR DOCUMENTATION PROVIDED BY EITHER THE COMPLAINANT OR THE LICENSEE PERTAINING TO THE COMPLAINT. THE DEPARTMENT SHALL ALSO NOTIFY THE FACILITY OF SUCH FINDINGS WITHIN ~~10~~ TEN DAYS OF THE DETERMINATION, BUT THE NAME OF THE COMPLAINANT OR RESIDENTS SHALL NOT BE DISCLOSED IN THIS NOTICE TO THE FACILITY. THE NOTICE OF SUCH FINDINGS SHALL INCLUDE A COPY OF THE WRITTEN DETERMINATION; THE CORRECTION ORDER, IF ANY; THE INSPECTION REPORT; OR WARNING NOTICE, IF ANY; AND THE STATE LICENSEURE ON WHICH THE VIOLATION IS LISTED.

i) A WRITTEN DETERMINATION, CORRECTION ORDER, OR WARNING NOTICE CONCERNING A COMPLAINT SHALL BE AVAILABLE FOR PUBLIC INSPECTION, BUT THE NAME OF THE COMPLAINANT OR RESIDENT SHALL NOT BE DISCLOSED WITHOUT HIS CONSENT.

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## Section 300.3310 (continued)

j) A COMPLAINANT WHO IS DISSATISFIED WITH THE DETERMINATION OR INVESTIGATION BY THE DEPARTMENT MAY REQUEST A HEARING UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~. THE FACILITY SHALL BE GIVEN NOTICE OF ANY SUCH HEARING AND MAY PARTICIPATE IN THE HEARING AS A PARTY. IF A FACILITY REQUESTS A HEARING UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~ WHICH CONCERNS A MATTER COVERED BY A COMPLAINT, THE COMPLAINANT SHALL BE GIVEN WRITTEN NOTICE AND MAY PARTICIPATE IN THE HEARING AS A PARTY. A REQUEST FOR A HEARING BY EITHER A COMPLAINANT OR A FACILITY SHALL BE SUBMITTED IN WRITING TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE MAILING OF THE DEPARTMENT'S FINDINGS AS DESCRIBED IN SUBSECTION (h) OF THIS SECTION ~~ABOVE~~. UPON RECEIPT OF THE REQUEST THE DEPARTMENT SHALL CONDUCT A HEARING AS PROVIDED UNDER SUBSECTION (k) OF THIS SECTION ~~ABOVE~~.

k) ANY PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT OF A FACILITY RENDERED IN A PARTICULAR CASE WHICH AFFECTS THE LEGAL RIGHTS, DUTIES OR PRIVILEGES CREATED UNDER THIS ACT MAY HAVE SUCH DECISION REVIEWED IN ACCORDANCE WITH SECTIONS 3-703 THRU 3-712 OF THE ACT.

l) WHEN THE DEPARTMENT FINDS THAT A PROVISION OF ARTICLE II OF THE ACT REGARDING RESIDENTS' RIGHTS HAS BEEN VIOLATED WITH REGARD TO A PARTICULAR RESIDENT, THE DEPARTMENT SHALL ISSUE AN ORDER REQUIRING THE FACILITY TO REIMBURSE THE RESIDENT FOR INJURIES INCURRED, OR \$100, WHICHEVER IS GREATER.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3320 Confidentiality

a) THE DEPARTMENT, THE FACILITY AND ALL OTHER PUBLIC OR PRIVATE AGENCIES SHALL RESPECT THE CONFIDENTIALITY OF A RESIDENT'S RECORD AND SHALL NOT DIVULGE OR DISCLOSE THE CONTENTS OF A RECORD IN A MANNER WHICH IDENTIFIES A RESIDENT, EXCEPT UPON A RESIDENT'S DEATH TO A RELATIVE OR GUARDIAN, OR UNDER JUDICIAL PROCEEDINGS. THIS REGULATION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF A RESIDENT OR A RESIDENT'S REPRESENTATIVE TO INSPECT OR COPY THE RESIDENT'S RECORDS.

b) CONFIDENTIAL MEDICAL, SOCIAL, PERSONAL, OR FINANCIAL INFORMATION IDENTIFYING A RESIDENT SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION IN A MANNER WHICH IDENTIFIES A RESIDENT. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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Section 300.3330 Facility Implementation

- a) THE FACILITY SHALL ESTABLISH WRITTEN POLICIES AND PROCEDURES TO IMPLEMENT THE RESPONSIBILITIES AND RIGHTS PROVIDED IN ARTICLE II OF THE ACT. THE POLICIES SHALL INCLUDE THE PROCEDURE FOR THE INVESTIGATION AND RESOLUTION OF RESIDENT COMPLAINTS UNDER THE ACT. THE POLICIES SHALL BE CLEAR AND UNAMBIGUOUS AND SHALL BE AVAILABLE FOR INSPECTION BY ANY PERSON. A SUMMARY OF THE POLICIES AND PROCEDURES, PRINTED IN NOT LESS THAN 12 POINT TYPE, SHALL BE DISTRIBUTED TO EACH RESIDENT AND REPRESENTATIVE. ~~(C)~~
- b) The facility shall provide copies of these policies and procedures upon request to next of kin, sponsoring agencies, representative payees and the public. ~~(C)~~
- c) EACH RESIDENT SHALL BE GIVEN A WRITTEN SUMMARY OF ALL THE RIGHTS ENUMERATED IN PART I OF ARTICLE II OF THE ACT AT THE TIME OF ADMISSION TO A FACILITY OR AS SOON THEREAFTER AS THE CONDITION OF THIS RESIDENT PERMITS. AT THE TIME OF IMPLEMENTATION OF THE ACT EACH RESIDENT SHALL BE GIVEN A WRITTEN SUMMARY OF ALL THE RIGHTS ENUMERATED IN PART I OF ARTICLE II OF THE ACT. IF A RESIDENT IS UNABLE TO READ SUCH WRITTEN SUMMARY, IT SHALL BE READ TO THE RESIDENT IN A LANGUAGE THE RESIDENT UNDERSTANDS. IN THE CASE OF A MINOR OR A PERSON HAVING A GUARDIAN, BOTH THE RESIDENT AND THE PARENT OR GUARDIAN SHALL BE FULLY INFORMED OF THESE RIGHTS AND RESPONSIBILITIES. ~~(C)~~
- d) The resident, resident's representative, guardian, or parent of a minor resident shall acknowledge in writing the receipt from the facility of a copy of all resident rights set forth in Article II of the Act and a copy of all facility policies implementing such rights. ~~(C)~~
- e) THE FACILITY SHALL ENSURE THAT ITS STAFF IS FAMILIAR WITH AND OBSERVES THE RIGHTS AND RESPONSIBILITIES ENUMERATED IN THE ACT AND THESE REGULATIONS. ~~(B)(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL (Repealed)

Section 300.3410 Application of Other Divisions of these Minimum Standards, Rules and Regulations (Repealed)

- a) A Specialized living facility is an experimental program designed to provide psychosocial rehabilitation and training, personal care,

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Section 300.3410(a) (continued)

- ~~psychiatric care and medical/nursing services to persons not in need of hospital psychiatric programming.~~
- b) ~~The residents of a Specialized Living Facility are to be persons who are chronically mentally ill and who would benefit from residential treatment. The following are the types of characteristics exhibited by a resident of a Specialized Living Facility:~~
  - ~~1) inability to adjust to an open setting~~
  - ~~2) episodic aggressive or hostile behavior~~
  - ~~3) persistent or bizarre psychotic symptoms~~
  - ~~4) lack of internal controls~~
  - ~~5) drug and/or alcohol abuse which complicates treatment of the mental disability~~
  - ~~6) very inadequate psychosocial functioning in basic activities of daily living (ADL), community survival skills, social interaction, etc.~~
  - ~~7) low motivation or resistance in following treatment regimen (especially medication compliance)~~
  - ~~8) specific behaviors unacceptable in current settings, such as carelessness with smoking materials, self exposure, etc.~~
  - ~~9) appearance and/or actions frightening to the community, though perhaps not dangerous~~
  - ~~10) depression, history of self destructive behavior or repeated suicide attempts~~
- c) ~~Prior to requesting an application for licensure, the applicant must provide a letter from the Director of the Department of Mental Health and Developmental Disabilities that the applicant is authorized to participate in the program. Since the program is experimental the Department of Mental Health and Developmental Disabilities will determine the number of facilities allowed to participate. Existing facilities licensed by the IDPH are not eligible for this program without a letter from the Director of the Department of Mental Health and Developmental Disabilities.~~

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## Section 300.3410 (continued)

~~(d) A Specialized Living Facility is not eligible for certification as a provider of care under Title XVII or Title XIX of the Federal Social Security Act (42 U.S.C.A. 1395 et seq. or 42 U.S.C.A. 1396 et seq.).~~

~~(e) The standards and regulations stated in this part shall apply to Specialized Living Facilities unless indicated otherwise in this Subpart by substitution and/or additions.~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3420 Administrator (Repealed)

~~The licensed administrator shall also be either a licensed Psychiatrist, Registered Psychologist or a Certified Social Worker, and must have had a minimum of five (5) years of experience working with the chronically mentally ill, including at least two (2) years in a residential setting. (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3430 Policies (Repealed)

~~a) Section 300.620(c)(1), which prohibits the admission of persons in need of mental treatment, as defined in the Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. 1983, ch. 91 1/2, sec. 1-100 et seq.), is not applicable to Specialized Living Facilities.~~

~~b) Direct Care Aides must either meet Section 300.660(a)(1) or shall successfully complete a Department of Mental Health and Developmental Disabilities approved Mental Health Technician or Specialist Training Course as indicated by written documentation from the Department of Mental Health and Developmental Disabilities within 120 days of employment, unless previously completed. Equivalency may also be established by meeting the requirements under Section 350.680(a) of the Minimum Standards, Rules and Regulations for Intermediate Care Facilities for the Developmentally Disabled, Section 300.680(a) of the Minimum Standards, Rules and Regulations for Long-Term Care Facilities for Persons Under 22 Years of Age, and Division 7 of the Minimum Standards, Rules and Regulations for Home Health Agencies. (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 300.3440 Personnel (Repealed)

~~a) In addition to meeting the personnel requirements contained in Section 300.810 of this Part, each facility shall have, at a minimum, one licensed nurse, a clinical psychologist or physician on-duty at all times. (A, B, C)~~

~~b) Each facility shall obtain a minimum of twenty (20) hours of on-site psychiatric consultation per week. If the administrator happens to be a psychiatrist, he/she may not provide more than ten (10) of these hours of psychiatric consultation per week. If the psychiatrist/administrator does provide psychiatric consultation, up to ten (10) such hours may be counted toward the "full time" requirement of the administrator set forth in Section 300.510 of this Part. (B, C)~~

~~c) If clinically indicated "necessary by the administrator," each facility shall have at least one consultant a minimum of 4 hours per week who can advise on programming for clients with secondary diagnoses of alcohol/chemical abuse. (B, C)~~

~~d) Specialized Living Facilities do not need to make arrangements for consultation from a Registered Medical Records Consultant as set forth in Sections 300.830(i) and 300.1830.~~

~~e) Each Specialized Living Facility shall have a Human Rights Committee which shall review, at least quarterly, the care, treatment and protection of the human rights of individual residents. This Committee shall consist of equal numbers of: staff, residents or their representatives; and persons from outside the facility, such as doctors, lawyers, parents, friends and advocates. This Committee shall review all issues brought by residents, staff, administration, parents and advocates and resolve them in a manner consistent with the legal and human rights of the residents. Each facility shall have written policies which are followed, concerning the composition, duties and operation of the Human Rights Committee. (A, B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3450 Resident Living Services Medical and Dental Care (Repealed)

~~Division 5 Medical and Dental Care of Residents shall not apply to a Specialized Living Facility.~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF PUBLIC HEALTH

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## Section 300.3460 Resident Service Programs (Repealed)

- ~~a) The facility shall provide, either directly or through arrangements with an outside resource, as needed by the individual resident, all resident living services, training and guidance necessary in the activities of daily living and in the development of self help skills for maximum independence. These services shall consist of, at a minimum, the following:~~
- ~~1) Psychological Services (as defined in Section 300.3470) (B, C)~~
  - ~~2) Social Services (as defined in Section 300.3480) (B, C)~~
  - ~~3) Organized Recreational Activities Services (as defined in Section 300.3490) (B, C)~~
  - ~~b) The facility shall provide in its initial application and through subsequent reports as required by the Department of Mental Health and Developmental Disabilities a delineated treatment philosophy combined with an integrated program description covering its Resident Services. This description shall include specific services and approaches, admission and discharge criteria, detailed schedules, staffing patterns, staff training program, records system design and resources outside the facility which are used for referral or consultation. These detailed program descriptions will be subject to initial and continued review and approval by the Department of Mental Health and Developmental Disabilities, including on site surveys. (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3470 Psychological Services (Repealed)

- ~~a) Psychological services shall be provided to residents, directly through contact with psychologists and indirectly through the psychologists' consultation with other persons involved in psychological testing, psychosocial rehabilitation and training and/or behavior modification of residents. (B, C)~~
- ~~b) Psychologists shall participate in the continuing interdisciplinary evaluation of individual residents for the purpose of initiating and monitoring individual skill training and behavioral programs. This participation shall occur at least every two months. (B, C)~~
- ~~c) Psychologists shall participate in the development of written and~~

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## Section 300.3470(c) (continued)

- ~~individualized skill training and behavioral program plans. These plans shall be reviewed and updated at least quarterly. They shall be designed to maximize each resident's development and acquisition of.~~
- ~~1) Control of unacceptable behaviors; (B, C)~~
- ~~2) Stress management skills; (B, C)~~
- ~~3) Sensorimotor and perceptual skills (including sensory integration); (B, C)~~
- ~~4) Social and communication skills; (B, C)~~
- ~~5) Self care and grooming skills; (B, C)~~
- ~~6) Health maintenance skills (including self medication training); (B, C)~~
- ~~7) Literacy and basic arithmetic skills; (B, C)~~
- ~~8) Independent community living skills; (B, C)~~
- ~~9) Leisure time management; (B, C)~~
- ~~10) Pre-vocational attitudes and behaviors. (B, C)~~
- ~~d) In addition, to meeting the personnel requirements contained in Section 300.810 of this Part, the facility shall employ not less than one full-time Registered Psychologist to carry out the various psychological service activities in accordance with the needs of the following functions:~~
  - ~~1) Psychological services to residents including evaluation, consultation, therapy, and program development; (B, C)~~
  - ~~2) Administration and supervision of psychological services; (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3480 Social Services (Repealed)

- ~~a) Social services, as part of an interdisciplinary spectrum of~~

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## Section 300.3480(a) (continued)

- ~~services, shall be provided to the residents through the use of social work methods directed toward:~~
- ~~1) Maximizing the social functioning of each resident. (B, C)~~
- ~~2) Enhancing the coping capacity of the resident or his family. (B, C)~~
- ~~3) Providing psychosocial rehabilitation services. (B, C)~~
- ~~4) Asserting and safeguarding the human and civil rights of residents and their families, and fostering the human dignity and personal worth of each resident. (B, C)~~
- ~~b) Facility social work staff shall assess persons referred to the facility to determine how its programs could be beneficial.~~
- ~~c) Social workers shall participate at least every two months in the continuing interdisciplinary evaluation of individual residents for the purposes of initiating, monitoring, and following up on individualized skill training and behavioral programs. (B, C)~~
- ~~d) During the resident's admission to and while receiving services in the facility, the social work staff shall provide liaison between the resident, the facility, the family, and the community, so as to help the facility staff to:~~
  - ~~1) Individualize and understand the needs of the resident and his/her family in relation to each other. (B, C)~~
  - ~~2) Understand social factors, including staff resident relationships, in the resident's day to day behavior. (B, C)~~
  - ~~3) Prepare the resident for changes in his living situation. (B, C)~~
- ~~e) Social workers shall support the resident's experience in the facility through:~~
  - ~~1) Counseling, crisis intervention and conflict resolution in response to problems the resident may have with other residents, staff, or family members. (B, C)~~
  - ~~2) Referral to specific outside services, as appropriate. (B, C)~~

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## Section 300.3480(e) (continued)

- ~~3) Help the family to participate in planning for the resident's return to home or other community placement. (B, C)~~
  - ~~f) Social work assistants or aides employed by the facility shall work under the supervision of a Qualified Social Worker. (B, C)~~
- (Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 300.3490 Recreational and Activities Services (Repealed)
- ~~a) Recreational and activity services shall be provided in accordance with Section 300.140. These services shall be coordinated with other services and programs provided the residents, in order to make fullest possible use of the facility's resources and to maximize benefits to the residents. (B, C)~~
  - ~~b) Equipment and supplies shall be provided to carry out the activities programs. (B, C)~~
- (Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 300.3500 Individual Treatment Plan (Repealed)
- ~~a) Each resident shall have an individual evaluation which shall:~~
    - ~~1) Be based upon the use of empirically reliable and valid instruments such as Spitzer and Endicott's Schedule for Affective Disorders and Schizophrenia, Overall and Gorkham's Brief Psychiatric Rating Scale, and the Hamilton Rating Scale for Depression whenever such tools are available. (B, C)~~
    - ~~2) Provide the basis for prescribing a program of psychosocial rehabilitation, behavior management and skill training experiences for the resident. (B, C)~~
  - ~~b) There shall be written treatment and training objectives for each resident that are:~~
    - ~~1) Based upon all diagnostic and prognostic data. (B, C)~~
    - ~~2) Stated in specific behavioral terms that permit the progress of the individual to be assessed. (B, C)~~



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## Section 300.3500 (continued)

- ~~c) There shall be a written record for each resident, maintained by and available to the facility staff, which provides specific details concerning methods utilized, progress and problems for individual behavioral and skill training objectives. (B, C)~~
- ~~d) All resident services shall be coordinated through an integrated, individual treatment plan. This plan shall be developed by an interdisciplinary team composed of representatives of each professional discipline and service represented in the facility. Documentation of the treatment plans, implementation, results, plan review and recommendation for the range of services provided in a specialized living facility will be maintained in an integrated, individual record for each resident. (B, C)~~
- ~~e) Referral or rehabilitation programs shall be provided residents with hearing, vision, perceptual, or motor impairments, in cooperation with staff. (B, C)~~
- ~~f) There shall be personnel to carry out the behavioral and skill training program. Supervision of delivery of behavioral and skill training services shall be the responsibility of a person who is a registered psychologist. (B, C)~~
- ~~g) There shall be a formal, interdisciplinary review of individualized treatment programs and/or service plans no less often than every two (2) months to insure continuing appropriateness of service planning, consistency of management methods with planning, and the achievement of resident progress toward stated goals. The resident's attending psychiatrist shall participate as clinically indicated, but no less often than every four (4) months. (B, C)~~
- ~~h) The facility shall have an in-house work activity program certified by the United States Department of Labor pursuant to the 1983 edition of 29 CFR 525, "Employment of Handicapped Clients in Sheltered Workshops," but no subsequent edition of those regulations. (B, C)~~
- ~~1) Records shall be maintained for each resident functioning in these programs. These shall show appropriateness of the work activity program to the individual and the resident's response to the program. These records shall become a part of the resident's record. (B, C)~~
- ~~2) Residents shall not be used to replace employed staff. (B, C)~~

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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3500 (continued)

- ~~i) The facility shall designate a vocational services coordinator whose responsibility shall be to coordinate the work activity program. The vocational services coordinator shall have at least a bachelor's degree and at least one year's experience with the mentally ill in a vocational setting. (B, C)~~
- (Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 300.3510 Health Services (Repealed)
- The facility shall provide all services necessary to maintain each resident in good physical health. These services include, but are not limited to, the following:—
- ~~a) Medical services, including a complete physical examination at least annually and formal arrangements to provide treatment for medical emergencies on a twenty-four (24) hour, seven (7) day-a-week basis. (A, B, C)~~
- ~~b) Nursing services to provide immediate supervision of the health needs of each resident by a registered professional nurse or a licensed practical nurse. (A, B, C)~~
- ~~c) Dental services to provide evaluation, diagnosis, treatment and annual review, including care for dental emergencies, administered by or under the supervision of a dentist licensed in the State to practice dentistry or dental surgery. (A, B, C)~~
- ~~d) Occupational therapy services for purposes of initiating, monitoring and follow-up of individualized treatment programs rendered by or under the supervision of a physician with special training or experience in the specialty or an occupational therapist. (A, B, C)~~
- (Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 300.3520 Medical Services (Repealed)
- ~~a) The facility shall have a written program pursuant to Section 300.1010 of this Part. (B, C)~~
- ~~b) There shall be a written financial or nonfinancial agreement for the provision of licensed medical care for the facility, including care~~

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## Section 300.3520(b) (continued)

## Section 300.3520(g)(1) (continued)

~~for psychiatric and other medical emergencies on a twenty-four (24) hour, seven (7) days a week basis. The facility shall have an advisory physician, fully licensed to practice medicine in Illinois, to provide advice on general health conditions and practices of the facility. (B, C)~~

~~a physician determines that such restraints are no longer clinically necessary. (B, C)~~

~~c) Each resident shall have available the services of a licensed psychiatrist. The psychiatrist shall participate as a member of the interdisciplinary team in the continuing evaluation of individual residents, for the purposes of initiating, monitoring, and following-up on individualized treatment programs. (B, C)~~

~~2) Secured settings may be utilized for residents demonstrating a lack of internal controls and/or episodic aggressive or hostile behaviors. If a secured setting is clinically determined by a physician, psychologist or licensed nurse to be necessary, the requirements of the Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. 1983, Ch. 91 1/2, Section 2-109) shall be observed. (B, C)~~

~~d) The admission information for a resident shall include diagnoses, summary of present medical findings, medical history, mental and physical functioning capacity, and prognosis; it shall also include orders for medication, treatments, restorative services, diet, specific procedures recorded for the health and safety of the resident, activities and plans for continuing care and discharge. If this information is not received with the resident at the time of admission, it must be received within forty-eight (48) hours. (B, C)~~

~~b) The reason for ordering and using restraints shall be recorded in the clinical record. There shall be written policies, which are followed in the operation of the facility, covering the use of restraints which shall be consistent with the rules contained in this Part. (C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3530 Dental Services (Repealed)

~~a) If the facility determines that a resident has become unmanageable, he shall be examined by a physician and/or a psychiatrist. This medical examination shall be made within sixteen (16) hours. A psychologist and/or members of other appropriate professional disciplines should be consulted. (B, C)~~

~~a) There shall be comprehensive diagnostic dental services for all residents which include a complete extra and intraoral examination utilizing all diagnostic aides determined necessary by the dentist to evaluate the resident's oral condition, within a period of one (1) month following admission unless such an examination was done within six (6) months of admission, and the results are received and reviewed by the facility and are entered in the resident's record. (B, C)~~

~~f) No facility initiated discharge shall occur without the concurrence of the consultant psychiatrist. All involuntary discharges and transfers shall be in accordance with Sections 3-401 to 3-423 of the Act. (B, C)~~

~~b) There shall be written agreement with a dentist which shall provide comprehensive treatment services for all residents. These services shall include but not be limited to: \_\_\_\_\_~~

~~g) If a resident is placed in a behavior modification program pursuant to an individualized treatment/service plan, (s)he may be restricted to a given area or room for a period of time not to exceed four (4) hours. (B, C)~~

~~1) Provision for dental treatment. (B, C)~~

~~2) Provision for emergency treatment on a twenty-four (24) hour, seven (7) days a week basis, by a dentist. (B, C)~~

~~3) A recall system that will assure that each resident is reexamined at specified intervals in accordance with his needs as determined by the dentist, but at least annually. (B, C)~~

~~c) There shall be education and training in the maintenance of oral~~



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## Section 300.3530(c) (continued)

- ~~health and a dental hygiene program that includes imparting information regarding nutrition and diet control measures to residents and staff, and instruction of residents and staff in proper oral hygiene methods. (B, C)~~
- ~~d) A permanent dental record shall be maintained for each resident by the facility. A summary dental progress report shall be entered in the resident's record within thirty (30) days of dental treatment. A copy of the permanent dental record shall be provided a facility to which a resident is transferred. (B, C)~~
- ~~e) All dentists providing services to the facility shall be fully licensed to practice in the State of Illinois. All dental hygienists providing services to the facility shall be licensed to practice in the State of Illinois. (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3540 Optometric Services (Repealed)

- ~~a) Within sixty (60) days of admission, each resident shall have an eye examination performed by an optometrist or ophthalmologist licensed by the State of Illinois. Should the resident, however, have had a documentable optometric examination within twelve months of admission and is not currently experiencing visual difficulties, the admission examination requirement is considered to be satisfied. (B, C)~~
- ~~b) Each resident shall be seen thereafter by his/her optometrist or ophthalmologist as often as the optometrist or ophthalmologist determines is necessary to assure adequate eye care. In no case should the interval between eye examinations exceed two years. (B, C)~~
- ~~c) A permanent optometric record shall be maintained for each resident by the facility. A copy of this permanent record shall be forwarded in the event of a resident transfer to another facility. (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3550 Audiometric Services (Repealed)

- ~~a) Each resident shall have an audiometric examination performed by an~~

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3550(a) (continued)

- ~~audiologist within sixty (60) days of admission. (B, C)~~
- ~~b) Should the resident, however, be able to present a written record of having had an audiometric examination within twelve months of admission, and if that resident is not currently experiencing hearing difficulties, the admission examination requirement is considered to be satisfied. (B, C)~~
- ~~c) Treatment shall ensue if clinically indicated by the audiologist. Residents shall be seen thereafter, by their audiologist(s) as often as deemed appropriate by the audiologist(s). (B, C)~~
- ~~d) A permanent audiometric record shall be maintained for each resident by the facility. A copy of this permanent record shall be forwarded in the event of resident transfer to another facility. (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3560 Podiatric Services (Repealed)

- ~~a) If upon admission the physician or licensed nurse determines that a resident is experiencing ambulatory difficulties, or if the resident expresses problems with his/her feet, or if a medical condition known to affect the care of the feet exists, a podiatric examination shall be performed within thirty (30) days. (B, C)~~
- ~~b) Treatment shall ensue if clinically indicated by the podiatrist. Residents shall be seen thereafter, by their podiatrist(s) as often as he deems appropriate. (B, C)~~
- ~~c) A permanent podiatric record shall be maintained for each resident by the facility. A copy of this permanent record shall be forwarded in the event of a resident transfer to another facility. (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 300.3570 Occupational Therapy Services (Repealed)

- ~~a) Occupational therapy services shall be provided for residents through personal contact of the therapists directly with the residents and/or indirectly with persons involved with the residents if determined necessary by the interdisciplinary team. (B, C)~~

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## Section 300.3570 (continued)

- ~~b) Occupational therapy services shall be provided by or supervised by a full time registered occupational therapist. These services shall provide treatment/training programs that are designed to preserve and improve abilities for independent function, such as sensory integration, coordination, and activities of daily living, and to prevent, insofar as possible, irreducible or progressive disabilities, through means such as the use of skill training and sensory stimulation. Group programs shall be arranged with regard to assessed levels of functioning and deficits. Individual sessions will be provided if determined necessary by the occupational therapist due to the resident's severe regression. (B, C)~~
- ~~c) The occupational therapist shall function closely with the resident's physician and participate in interdisciplinary treatment planning. Treatment/training progress shall be recorded as treatment/training is provided by the facility staff, evaluated at least quarterly, and used as the basis for continuation or change of the resident's program. (B, C)~~
- ~~d) Evaluation results, treatment objectives, plans, procedures, and continuing observations of treatment progress shall be recorded accurately, summarized, communicated, and included in the resident's record. (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3580 Nursing and Personal Care (Repealed)

- ~~a) Each Specialized Living Facility shall have a director of nursing who shall be a registered nurse with a minimum of three (3) years of direct psychiatric nursing experience. A registered nurse with a Bachelor's Degree in Nursing need only have two (2) years of experience in direct psychiatric nursing to meet this requirement, while a registered nurse with a Master's Degree in Nursing need only have one (1) year of direct psychiatric nursing to meet this requirement. (B, C)~~
- ~~b) Residents living in Specialized Living Facilities shall be provided at least three (3.0) hours of general nursing care, personal care and psychiatric nursing care each day, of which 10% must be licensed nurse time. (A, B, C)~~
- ~~c) Direct Aides who have met the requirements of Section 300.3430(b) and Qualified Professionals may be utilized to provide the remainder of~~

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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3580(c) (continued)

~~the 100%. (B, C)~~

- ~~d) Qualified Professionals do not have to comply with the Direct Care Aide Training Requirements of Section 300.3430(b) and may be counted in the overall staffing ratio described in Section 300.3580(b). (B, C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3590 Resident Care Services (Repealed)

~~Resident Care Services does not apply to a Specialized Living Facility~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3600 Record Keeping (Repealed)

- ~~a) In addition to Section 300.1810(a)(2), all other health professionals from whom the resident needs services, such as optometrists, audiometrist and podiatrist, must be named in the resident record. (C)~~
- ~~b) In addition to the other records required in Section 300.1840, a daily log or incident book will be maintained for each programmatic unit, recording and documenting all unusual occurrences and therapeutically important interactions, including but not limited to fighting, name calling, illness, and changes in level of social interaction by residents on each shift. (B, C)~~
- ~~c) Specialized Living facilities are not required to have an Accredited Record Technician or Registered Record Administrator who is assigned responsibility for resident records, nor are they required to obtain consultation from a Medical Record Administrator or Technician, as required by Sections 300.1830 and 300.830(1). They are however, required to have an employee of the facility who has been assigned the responsibility for assuring that the clinical records are maintained, completed and preserved. The designated individual shall either be, or receive consultation from, a person skilled in record maintenance and preservation, such as a licensed nurse, physician, social worker, or clinical psychologist. (C)~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 300.3610 Food Service (Repealed)

- ~~a) Section 300.2010(b)(2), which requires at least eight (8) hours of consultation per month from a dietitian, shall not apply to a specialized living facility. However, Section 300.2010(b)(1), which requires at least four (4) hours of consultation per month, does apply.~~
- ~~b) The food service requirements of Subpart J, Sections 300.2010, 300.2220, 300.330 and 300.2100 shall be satisfied by the vendor if food services are provided by contract. All other requirements of Division 10 shall be met by the facility. (B, C)~~
- ~~c) Residents, as part of their Activities in Daily Living Training (ADLT) programs, may assist in the preparation of their own meals in training kitchens designed for this purpose. Residents in anticipation of discharge, shall be given the opportunity to plan their own menus, shop for food stuffs, and prepare their own meals under supervision.~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)

- ~~a) Foot boards on beds are not required in a Specialized Living Facility. (300.2410(a)).~~
- ~~b) Residents of Specialized Living Facilities will not need to have individual equipment such as emesis basins, bedpans, urinals and wash basins; therefore, space for the storage of such items will not need to be provided (300.2410(1)).~~
- ~~c) Due to the nature of the services provided in this type of facility, the use of cubicle curtains and/or bedside screens is contraindicated, and they are not required to be provided (300.2420(b)(2)).~~
- ~~d) A "nurse call system" is not required in this type of facility. (300.2420(b), 300.2940(g) and 300.3140(e)).~~
- ~~e) Furnishings shall be home-like and non-institutional in character. Bedrooms should contain radios, wall clocks, pictures, calendars and book shelves. The use of carpeting on floors is encouraged. At least one room on each floor, however, shall be furnished to accommodate problem smokers or the behaviorally incontinent (title~~

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## NOTICE OF PROPOSED AMENDMENTS

## Section 300.3620(e) (continued)

- ~~f) Floors, blinds, metal furniture, flame retardant mattresses), (B, C)~~
- ~~f) Each bedroom shall be provided with a full length shatter resistant mirror. (A bathroom mirror over a lavatory will not meet this requirement.) (B, C)~~
- (Source: Repealed at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.3630 Design and Construction Standards (New and Existing Facilities) (Repealed)

- ~~a) Multiple resident bedrooms in new facilities shall not have more than two (2) beds. Multiple resident bedrooms in existing facilities shall not have more than three (3) beds. (B, C)~~
- ~~b) The nursing station may be defined by a 30" high partition. In lieu of a clean utility room as described in Sections 300.2860(g)(1), 300.3060(f)(1) and 300.3060(f)(2)(A), an area behind or adjacent to the nursing area may be designated a 'clean area' and shall contain cabinets to store sterile supplies, clean supplies, other supplies, charts and/or other required records. A locked medications cabinet shall be provided. (B, C)~~
- ~~c) The resident bedroom toilet room in new facilities shall serve no more than two (2) adjacent resident rooms nor more than four (4) beds. (B, C)~~
- ~~d) A bathtub accessible from one end and both sides for assisted bathing of handicapped residents is not required in new facilities, as required by Section 300.2860(f)(7). However, new facilities shall provide an enclosure on each floor for the bathing of handicapped persons, as specified by Section 300.3060(e)(6). (B, C)~~
- ~~e) At least one (1) group meeting room per program unit shall be required for small group and individual therapy sessions. (B, C)~~
- ~~f) The activities space requirement contained in Section 300.2860(g) and Section 300.3070(c) is expanded to include:~~
- ~~1) a recreation room with ping pong table and other equipment for mild physical activities; (B, C)~~
- ~~2) a quiet recreation/socialization room with books, magazines,~~

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## Section 300.3630(f)(2) (continued)

- ~~board games, comfortable chairs and card tables and chairs;~~  
(B, C)
- ~~3) a room equipped for hair care, including supplies, shampoo basin, etc.; (B, C)~~
- ~~4) a small sound-deadened room (on each locked program unit) equipped with a punching bag and batuka (foam) baseball bats; and, (B, C)~~
- ~~5) an exercise room equipped with items such as mats, and exercise cycle. (B, C)~~
- ~~g) At least one training kitchen shall be provided in each program unit to allow residents to be trained to prepare their own meals. (B, C)~~
- ~~h) At least one training laundry shall be provided in each program unit to allow residents to be trained to do their own laundry. Washers and dryers shall be residential type and may be coin or token operated. An ironing board shall also be available. (B, C)~~
- ~~i) Each facility shall maintain a commissary that sells personal care items, and cigarettes, etc. All vending machines shall be token operated. (B, C)~~
- ~~j) All staff on the program unit shall be required to carry keys to all locked exits at all times. (B, C)~~
- ~~k) Windows shall be protected with security screens or be equipped with sash limiters to prevent residents from opening windows far enough to crawl through. Window glazing shall be suitable for each patient as determined by the attending physician. (B, C)~~
- ~~l) An enclosed outdoor space large enough to accommodate vigorous activity (e.g. badminton, basketball, volleyball) shall be provided. (B, C)~~
- ~~m) Clean and soiled utility rooms shall not be required in Specialized Living Facilities.~~

(Source: Repealed at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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## SUBPART R: DAYCARE PROGRAMS

## Section 300.3710 Day Care in Long-Term Care Facilities

- a) For a licensed long-term care facility to be approved for a day care program, it is necessary that the facility meet all licensing requirements for its level of care.
- b) In addition, the following criteria must also be met.
  - 1) Staff: Sufficient and satisfactory personnel shall be on duty to provide services that meet the total needs of the day care residents, without detracting from the services given to the residents in the facility in accordance with various staffing requirements in this Part.
  - 2) Space:
    - A) Dining - Adequate space and equipment available to accommodate the additional residents in accordance with Subparts J and L and Sections 300.2070 or 300.3070.
    - B) Activity Area - Large enough area to accommodate capacity of facility, plus additional "Day Care" residents in accordance with Sections 300.2870 or 300.3070.
    - C) Rest Area - A definite area should be designated as an area available for the Day Care resident to nap or rest. This area should be equipped with beds (roll-aways can be used) or cots and portable screens. There should also be adequate space available for personal items storage for the number of Day Care residents being cared for. Suggested areas which can be utilized for the Day Care resident could include:
      - i) Facilities having more than one communal area (such as a lounge, sunporch, and other areas ~~etc.~~) could designate one of these for rest areas;
      - ii) Non-occupied rooms (no one assigned to these rooms);
      - iii) Toilets - Adequate number to accommodate extra number of residents in accordance with Sections 300.2860 and 300.3060.



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## Section 300.3710(b) (continued)

## Section 300.3710(b)(7) (continued)

## 3) Records:

A) A statement by a physician who has evaluated the resident within the last 30 days stating the resident is free of communicable and infectious disease, and indicating any medication ~~and/or~~ and treatments and diet needed by the resident during the period of time in the facility. Permission should also be granted in this statement for the resident to participate in activities with any contraindications or limitations.

B) Medication and Treatment record - Required for any medications or treatments given during resident stay in the facility. (Medications must be in original containers and properly labeled.)

C) "Face" sheet or admission sheet - Containing all pertinent information necessary for the "safe keeping" of the resident such as complete name; address, telephone number, social security number, medicare number, and age of resident; name, business, and home address, and telephone number of person to notify in an emergency; name of family physician; name of physician to call in an emergency.

D) Incident Report - in case of medication error or accident of any kind.

4) There must be written policies covering "Day Care" Service in the facility which explain implementation of this section.

5) Permission for a Day Care Program requires identifying the services of the facility that will be used in the program. Examples: Activity area, dining area, administering of medications by nursing staff, physical therapy, speech, and social services, ~~etc.~~

6) The maximum number of "Day Care" residents served shall be reported with the application under Section 300.610 of this Part.

7) The facility shall consider the following in developing and providing "Day Care Programs":

A) Use of house or advisory physician for emergencies;

B) Insurance coverage;

- C) Signed agreement with family or responsible individual;
- D) Permission to be involved in activities outside of the facility (in the community);
- E) Attendance record; and
- F) Facility should be aware of method and time of pick-up and delivery of the Day Care residents.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1) Heading of Part:

Minimum Standards for Classification and Licensure of Intermediate Care Facilities for the Developmentally Disabled

2) Code Citation:

77 Ill. Adm. Code 350

3) Section Numbers:

350.110, 350.120, 350.130, 350.140,  
350.150, 350.160, 350.165, 350.170,  
350.175, 350.180, 350.190, 350.200,  
350.210, 350.220, 350.230, 350.240,  
350.250, 350.260, 350.270, 350.272,  
350.274, 350.276  
350.277  
350.278, 350.280, 350.282, 350.284,  
350.286, 350.288, 350.290, 350.300,  
350.310, 350.320, 350.330, 350.340,  
350.510, 350.610, 350.620, 350.630,  
350.640, 350.650, 350.660, 350.670  
350.675  
350.680

Proposed Action:

Amendments  
Amendments  
Amendments  
Amendments  
Amendments  
Amendments  
New Section  
Repeal, New Section

350.690, 350.700, 350.810, 350.820,  
350.830, 350.1010, 350.1020, 350.1030,  
350.1040, 350.1050, 350.1060, 350.1070,  
350.1210, 350.1220  
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350.2660, 350.2670, 350.2680, 350.2690,  
350.2700, 350.2710, 350.2720, 350.2730,

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Section Numbers:

350.2740, 350.2910, 350.2920, 350.2930  
350.2940, 350.2950, 350.2960, 350.2970  
350.2980, 350.2990, 350.3000, 350.3010  
350.3020, 350.3030, 350.3040, 350.3210  
350.3220, 350.3230, 350.3240, 350.3250  
350.3260, 350.3270, 350.3280, 350.3290  
350.3300, 350.3310, 350.3320, 350.3330  
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350.4030, 350.4210

Proposed Action:

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4) Statutory Authority:

Nursing Home Care Act [Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq., as amended by Public Act 85-968 (Senate Bill 1322), effective December 9, 1987, Public Act 85-1183 (House Bill 4172), effective August 13, 1988, and Public Act 85-1378 (Senate Bill 2201), effective September 1, 1988]

5) A Complete Description of the Subjects and Issues Involved:

The Department is proposing the permanent adoption of amendments which were adopted on an emergency basis effective October 24, 1988. These proposed amendments will also make other changes to reflect recent statutory changes and to clarify various provisions of the rules. In addition, these proposed amendments will update statutory references and make a number of non-substantive changes in the other provisions of the rules. The specific changes included in these proposed amendments are described here.

Emergency Changes

The most significant emergency changes which are included in these proposed amendments are the result of Public Act 85-1378 (Senate Bill 2201), which took effect on September 1, 1988. This legislation amends the Nursing Home Care Act to eliminate the lowest level of violations, level "C" violations. This level of violations is replaced with a procedure for the issuance of administrative warnings. Facilities will not be required to submit a plan of correction in response to an



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administrative warning, but will be responsible for correction of the condition.

To implement this change, the Department is proposing the following actions which were adopted on an emergency basis effective October 24, 1988. The Notice of Emergency Amendments appeared in the Illinois Register on November 14, 1988, at 12 Ill. Reg. 18705.

1. Deleting all of the current designations of level "C" violations from the entire text of the rules.
2. Expanding the provisions in Section 350.272 concerning the determination to issue a notice of violation to also include administrative warnings.
3. Eliminating the language concerning level "C" violations in Section 350.274 which concerns the determination of the level of a violation.
4. Adding a new Section 350.277 to provide procedures for the issuance of administrative warnings.
5. Eliminating the provisions concerning the assessment of penalties for ten or more uncorrected level "C" violations from Section 350.282(e).
6. Adding a definition of "administrative warning" and deleting the definition of "type C violation" in Section 350.330.

Additional statutory changes included in Public Act 85-1378, and changes included in Public Act 85-1183 (House Bill 4172), which took effect on August 13, 1988, were also adopted on an emergency basis and are included in these proposed amendments. These changes include amendments to provisions concerning:

1. Submission of ownership information [Section 300.250(a)].
2. Contents of the quarterly list of facilities against which the Department is taking some action [Section 350.290(a)].
3. Basis and procedures for involuntary transfer or discharge [Section 350.3300(c)].
4. Procedure for hearings requested by persons who file complaints against a facility [Section 350.3310(j)].

Additional Statutory Changes

Additional statutory changes included in Public Act 85-968 (Senate Bill

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1322), which took effect on December 9, 1987, are also being implemented in these proposed amendments. These changes include amendments to reflect the statutory provisions concerning the length of the license period [Section 350.110(b)] and the appointment of monitors [Section 350.270(a)].

In addition, repeal of Sections 350.260(d) and (g) is being proposed, since the parallel sections of the statute, Sections 3-314 and 3-317, were repealed by Public Act 83-1530, which became effective July 1, 1985. Repeal of these provisions of the rules will be consistent with the statute.

Physical Examinations and Tuberculin Skin Tests

Changes in Sections 350.670 and 350.1220 and the addition of new Sections 350.675 and 350.1225 are being proposed to clarify the rules on employee physical examinations and tuberculin skin tests for employees and residents. The changes will eliminate the requirement for annual physical examinations for employees, since these examinations are not effective in protecting the health of the employees or residents. The provisions concerning the initial physical examination of employees are being separated into the new Section 350.675 and the procedures for conducting tuberculin skin tests are being separated into the new Section 350.1225. Section 350.1220, which concerns medical care for residents, is being amended to reference the tuberculin test procedures which are being relocated to Section 350.1225.

Additional Substantive Changes

The definition of "person in need of mental treatment" in Section 300.330 is being deleted. This term is not used in the text of the rules, so the definition is unnecessary.

The definition of "qualified mental retardation professional" in Section 350.330 is being amended to conform to recent changes in the rules of the Health Care Financing Administration governing Medicaid program certification of Intermediate Care Facilities for the Mentally Retarded (42 CFR 483). The changes in these federal rules were adopted effective October 1, 1988. The proposed amendments to this definition will insure that the definition is consistent with the federal rules.

The definition of a utensil sanitizer in Section 350.330 is being replaced with a definition of sanitation to include chemical, as well as steam sanitization.

Shower stall curb requirements in Section 350.2960(e)(4) are being eliminated as no longer necessary. These changes will insure that the

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rules reflect current enforcement policies of the Department, since numerous waivers have been granted from these requirements.

A provision which was added to Section 300.2960 effective December 24, 1987, concerning waivers of bedroom sizes is being moved from subsection (b)(2) to subsection (b)(1). In addition, the wording of this provision is being changed to correct and clarify the provision.

Reference Corrections and Updates

Throughout the text of these rules, references to the Nursing Home Care Act are being updated. These changes reflect the changes in the Act and the latest edition of the Illinois Revised Statutes.

Section 350.340, which contains a list of all of the materials incorporated and referenced in these rules is being updated. Statutory references in this Section have been corrected and updated.

Section 350.1910 is being amended to eliminate the reference to the "latest edition of" the Department's food service sanitation rules. This reference is being replaced with the correct citation. References to the Capital Development Board's rules on handicapped accessibility to buildings are also being updated. The title and content of these rules was recently changed based on a comprehensive revision of the statute which authorized the Board to adopt these rules. These references are being updated in Sections 350.340(a)(4)(C), 350.2620(a)(1)(B), 350.2700(a)(6), 350.2700(b)(4), 350.2920(e)(2), 350.3000(b)(1), and 350.3000(b)(2).

References to various units of the Department which had responsibility for the licensure of alcoholism treatment programs are being updated in Section 350.300. As amended, these provisions will refer to the Department of Alcoholism and Substance Abuse which assumed responsibility for the licensure of alcoholism treatment programs in July 1988.

Additional Editorial Changes

The proposed amendments eliminate the use of the phrase "his/her" throughout the rules. The elimination of this phrase is accomplished by rephrasing the provisions in the plural, rather than the singular, or by replacing the pronoun with the subject, such as "resident's" or "employee's." The term "etc." is also eliminated throughout the rules. This term is usually unnecessary and may cause confusion by implying that the Department may impose additional requirements.

The proposed amendments also eliminate the use of "(s)," "(es)," and "(ies)" at the end of words to indicate singular or plural. These

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changes should clarify the application of the provisions. The phrase "and/or" is also eliminated in the proposed amendments. The proposed amendments clarify the provisions which use this term by clearly indicating whether either or both is intended. The proposed amendments also revise the use of numbers throughout the rules for consistency. Numbers of ten or less are written out in the rules, while numbers greater than ten are indicated by digits. The use of both forms of numbers at each occurrence is eliminated as unnecessary.

The Department believes that there will be little, if any, economic effect of these proposed amendments on the regulated public. The elimination of some requirements may reduce costs for some regulated facilities, although such reductions are likely to be minimal.

The Department anticipates that the amendments will be adopted prior to the expiration of the emergency amendments on March 24, 1989.

6) Will these Proposed Amendments Replace an Emergency Rule Currently in Effect? Yes.

These proposed amendments include emergency amendments which were adopted effective October 24, 1988. The Notice of Emergency Amendments appeared in the Illinois Register on November 14, 1988, at 12 Ill. Reg. 18705.

7) Does this Rulemaking contain an Automatic Repeal Date? No.

8) Do these Proposed Amendments Contain Incorporations By Reference? No.

9) Are there any other Proposed Amendments Pending on this Part? No.

10) Statement of Statewide Policy Objectives:

This rulemaking neither creates nor expands a state mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Proposed Rulemaking:

Interested persons may present their comments concerning these rules by writing to Robert John Kane, Division of Governmental Affairs, Illinois Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761, within 45 days after this edition of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Administrative Procedure Act, any small business may present their comments in writing to Robert John Kane at the above address.



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Any small business (as defined in Section 3.10 of the Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Date Rule was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

B) Type of Small Businesses Affected:

Long term care facilities

C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

No additional reporting, bookkeeping or other procedures are required for compliance.

D) Types of Professional Skills Necessary for Compliance:

No additional professional skills are necessary for compliance.

The full text of the Proposed Amendments begins on the next page:

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## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

350.2410 Codes  
350.2420 Water Supply  
350.2430 Sewage Disposal  
350.2440 Plumbing

## SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

350.2610 Applicability of These Standards  
350.2620 Codes and Standards  
350.2630 Preparation of Drawings and Specifications  
350.2640 Site  
350.2650 Administration and Public Areas  
350.2660 Nursing Unit  
350.2670 Dining, Living, Activities Room-(s)-  
350.2680 Therapy and Personal Care  
350.2690 Service Departments  
350.2700 ~~Building~~ General Building Requirements  
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350.2720 Mechanical Systems  
350.2730 Plumbing Systems  
350.2740 Electrical Systems

## SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

350.2910 Applicability  
350.2920 Codes and Standards  
350.2930 Preparation of Drawings and Specifications  
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350.2960 Nursing Unit  
350.2970 Living, Dining, Activities Rooms  
350.2980 Treatment and Personal Care  
350.2990 Service Departments  
350.3000 General Building Requirements ~~Building General~~  
350.3010 Structural  
350.3020 Mechanical Systems  
350.3030 Plumbing Systems  
350.3040 Electrical Requirements

## SUBPART O: RESIDENT'S RIGHTS

350.3210 General  
350.3220 Medical and Personal Care Program

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER C: LONG-TERM CARE FACILITIES

## PART 350

~~MINIMUM STANDARDS FOR CLASSIFICATION AND LICENSURE OF INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE~~

## SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse License Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.320	Waivers
350.330	Definitions

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## Incorporated and Referenced Materials

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Administrator

## SUBPART C: POLICIES

350.610	Management Policies
350.620	Resident Care Policies
350.630	Admission and Discharge Policies
350.640	Contract Between Resident and Facility
350.650	Residents' Advisory Council
350.660	General Policies
350.670	Personnel Policies
350.675	Initial Health Evaluation for Employees
350.680	Developmental Disabilities Aides
	<del>Basic Developmental Disabilities (DD) Aide Training Program</del>
350.690	Disaster Preparedness
350.700	Serious Incidents and Accidents

## SUBPART D: PERSONNEL

350.810	Personnel
350.820	Consultation Services
350.830	Personnel Policies

## SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

350.1010	Service Programs
350.1020	Psychological Services
350.1030	Social Services
350.1040	Speech Pathology and Audiology Services
350.1050	Recreational and Activities Services
350.1060	Training and Habilitation Services
350.1070	Training and Habilitation Staff

## SUBPART F: HEALTH SERVICES

350.1210	Health Services
350.1220	Physician Services
350.1225	Tuberculin Skin Test Procedures
350.1230	Nursing Services
350.1240	Dental Services
350.1250	Physical and Occupational Therapy Services



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## SUBPART G: MEDICATIONS

350.1410 Medication Policies and Procedures  
 350.1420 Conformance with Physician's Orders  
 350.1430 Administration of Medication  
 350.1440 Labeling and Storage  
 350.1450 Control of Narcotics and Legend Drugs

## SUBPART H: RESIDENT AND FACILITY RECORDS

350.1610 Resident Record Requirements  
 350.1620 Content of Medical Records  
 350.1630 Confidentiality of Resident's Records  
 350.1640 Records Pertaining to Residents' Property  
 350.1650 Retention and Transfer of Resident Records  
 350.1660 Other Resident Record Requirements  
 350.1670 Staff Responsibility for Medical Records  
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## SUBPART I: FOOD SERVICE

350.1810 Director of Food Services  
 350.1820 Dietary Staff in Addition to Director of Food Services  
 350.1830 Hygiene of Dietary Staff  
 350.1840 Diet Orders  
 350.1850 Adequacy of Diet and Meal Pattern  
 350.1860 Therapeutic Diets  
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 350.1880 Menu Planning  
 350.1890 Food Preparation and Service  
 350.1900 Food Handling Sanitation  
 350.1910 Kitchen Equipment, Utensils, and Supplies

## SUBPART J: MAINTENANCE HOUSEKEEPING AND LAUNDRY

350.2010 Maintenance  
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## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

350.2210 Furnishings  
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## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

350.2410 Codes  
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## SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

350.2610 Applicability of These Standards  
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 350.2630 Preparation of Drawings and Specifications  
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 350.2670 Dining, Living, Activities Room—~~(S)~~  
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 350.2690 Service Departments  
 350.2700 ~~Building~~—General Building Requirements  
 350.2710 Structural  
 350.2720 Mechanical Systems  
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## SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

350.2910 Applicability  
 350.2920 Codes and Standards  
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 350.2980 Treatment and Personal Care  
 350.2990 Service Departments  
 350.3000 General Building Requirements—~~Building General~~  
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Restraints  
Abuse and Neglect  
Communication and Visitation  
Resident's Funds  
Residents' Advisory Council  
Contract With Facility  
Private Right of Action  
Transfer and/or Discharge  
Complaint Procedures  
Confidentiality  
Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES  
FOR THE DEVELOPMENTALLY DISABLED OF ~~FIFTEEN (15)~~ BEDS OR LESS

350.3710 Applicability of Other Provisions of this Part  
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350.3720 Administration  
350.3730 Admission and Discharge Policies  
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350.3890 Corridors  
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350.3920 Stairways, Vertical Openings and Doorways  
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350.3960 Plumbing Systems  
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350.3990 Emergency Electrical System  
350.4000 Fire Protection  
350.4010 Construction Types

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350.4020  
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Equivalencies  
New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

350.4210 Day Care in Long-Term Care Facilities

APPENDIX A Classification of Distinct Part of a Facility for Different Levels of Service  
APPENDIX B Federal Requirements Regarding Residents' Rights  
APPENDIX C Seismic Zone Map  
APPENDIX D Forms for Day Care in Long-Term Care Facilities  
TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled  
TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled  
TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled  
TABLE D Food Service Sanitation Rules and Regulations, 77 Ill. Adm. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled at Fifteen (15) Beds or Less  
TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Fifteen (15) Beds or Less  
TABLE F Disaster Preparedness Parameters-Relative Humidity and Temperature.

AUTHORITY: Implementing and authorized by the Nursing Home Care ~~Reform~~ Act ~~of 1979~~ (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4151-101 et seq.)

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended



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at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. effective October 24, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

NOTE: Italics and capitalization denote statutory language.

## SUBPART A: GENERAL PROVISIONS

## Section 350.110 General Requirements

a) These Minimum Standards apply to the operator/licensee of facilities, or distinct parts thereof, that are to be licensed and classified to provide intermediate care ~~and/or~~ or skilled nursing care. Any license issued and in effect prior to March 1, 1980, pursuant to the "Nursing homes, sheltered care homes, and homes for the aged Act" (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 35.16 et seq.) shall remain valid and subject to the terms and conditions of the "Nursing Home Care ~~Reform~~ Act ~~of 1979~~" (the Act) (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4151-101 et seq.) and all regulations promulgated thereunder until the expiration date shown on the face of such license.

b) The license issued to each operator/licensee shall designate the licensee's name, facility name, address, the classification by level of service authorized for that facility, the number of beds authorized for each level, the date the license was issued and the expiration date. Such licenses shall be issued for a period ~~not to exceed one (1) year~~ of NOT LESS THAN SIX MONTHS NOR MORE THAN 18 MONTHS. The Department will set the period of the license based on the license expiration dates of the facilities in the geographical area surrounding the facility IN ORDER TO DISTRIBUTE THE EXPIRATION DATES as evenly as possible THROUGHOUT THE CALENDAR YEAR. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-110)

c) An applicant may request that the license issued by the Department of Public Health Department have distinct parts classified according to levels of services. The distinct part must satisfactorily meet the applicable physical plant standards based on a level of service

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## Section 350.110(c) (continued)

classification sought for that distinct part. If necessary to protect the health, welfare and safety of residents in a distinct part requiring higher standards, the Department shall require compliance with whatever additional physical plant standards are necessary in any distinct part ~~(s)~~, to achieve this protection as required by the highest level of care being licensed. Administrative, supervisory, and other personnel may be shared by the entire facility, if so doing does not adversely affect meeting the total needs of the residents of the facility.

d) THE OPERATOR MAY NOT ADMIT RESIDENTS IN EXCESS OF THE LICENSED CAPACITY OF THE FACILITY. ~~(See Section 350.280 - Violations and Penalties) (B-G)~~

e) An intermediate care facility licensed and classified under the Act shall not use in its title or description "Hospital", "Sanitarium", "Sanatorium", "Rehabilitation Center", "Skilled Nursing Facility", or any other word or description in its title or advertisements which indicates that a type of service is provided by the facility which the facility is not licensed to provide or, in fact, does not provide. ~~(G)~~

f) Any person constructing or modifying a long-term care facility or portion thereof without obtaining the required permit from the Health Facilities Planning Board shall not be eligible to apply for licensure for that facility or portion thereof (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 1163.1). ~~(G)~~

g) THE LICENSEE SHALL GIVE ~~NINETY (90)~~ DAYS NOTICE PRIOR TO VOLUNTARILY CLOSING A FACILITY OR CLOSING ANY PART OF A FACILITY, OR PRIOR TO CLOSING ANY PART OF A FACILITY IF CLOSING SUCH PART WILL REQUIRE THE TRANSFER OR DISCHARGE OF MORE THAN TEN PERCENT ~~(10%)~~ OF THE RESIDENTS. SUCH NOTICE SHALL BE GIVEN TO THE DEPARTMENT, TO ANY RESIDENTS WHO MUST BE TRANSFERRED OR DISCHARGED, TO THE RESIDENT'S REPRESENTATIVE, AND TO A MEMBER OR THE RESIDENT'S FAMILY, WHERE PRACTICABLE. NOTICE SHALL STATE THE PROPOSED DATE OF CLOSING AND THE REASON FOR CLOSING. THE LICENSEE SHALL OFFER TO ASSIST THE RESIDENT IN SECURING AN ALTERNATIVE PLACEMENT AND SHALL ADVISE THE RESIDENT ON AVAILABLE ALTERNATIVES, WHERE THE RESIDENT IS UNABLE TO CHOOSE AN ALTERNATE PLACEMENT AND IS NOT UNDER GUARDIANSHIP, THE DEPARTMENT SHALL BE NOTIFIED OF THE NEED FOR RELOCATION ASSISTANCE. HE FACILITY SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS UNTIL THE DATE OF CLOSING, INCLUDING THOSE RELATED TO TRANSFER OR DISCHARGE OF RESIDENTS. THE DEPARTMENT MAY PLACE A RELOCATION TEAM

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## Section 350.110(g) (continued)

IN THE FACILITY AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. ~~1983~~  
1987, ch. 111 1/2, par. 4151-101 et seq.) (A, B)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.120 Application for License

- a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility, ~~and/or~~ or skilled nursing facility shall submit pre-application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The pre-application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications. ~~(C)~~

- b) A pre-application for a new facility shall be accompanied by a permit as required by the "Illinois Health Facilities Planning Act" (Ill. Rev. Stat. ~~1979~~ 1987, ch. 111 1/2, par. 1151 et seq.). ~~(C)~~

- c) APPLICATION FOR A LICENSE TO ESTABLISH OR OPERATE AN INTERMEDIATE CARE FACILITY, ~~AND/OR~~ OR SKILLED NURSING FACILITY SHALL BE MADE IN WRITING AND SUBMITTED, WITH OTHER SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE, ON FORMS PROVIDED BY THE DEPARTMENT.

- d) ALL APPLICATIONS, EXCEPT THOSE OF HOMES FOR THE AGED, SHALL BE ACCOMPANIED BY AN APPLICATION FEE OF ~~TWO HUNDRED~~ 200 DOLLARS. THE APPLICATION SHALL BE UNDER OATH AND THE SUBMISSION OF FALSE OR MISLEADING INFORMATION SHALL BE A CLASS A MISDEMEANOR. THE APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

- 1) THE NAME AND ADDRESS OF THE APPLICANT IF AN INDIVIDUAL, AND IF A FIRM, PARTNERSHIP, OR ASSOCIATION, OF EVERY MEMBER THEREOF, AND IN THE CASE OF A CORPORATION, THE NAME AND ADDRESS THEREOF, AND OF ITS OFFICERS AND ITS REGISTERED AGENT, AND IN THE CASE OF A UNIT OF LOCAL GOVERNMENT, THE NAME AND ADDRESS OF ITS CHIEF EXECUTIVE OFFICER;

- 2) THE NAME AND LOCATION OF THE FACILITY FOR WHICH A LICENSE IS SOUGHT;

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## Section 350.120(d) (continued)

- 3) THE NAME OF THE PERSON OR PERSONS UNDER WHOSE MANAGEMENT OR SUPERVISION THE FACILITY WILL BE CONDUCTED;

- 4) THE NUMBER AND TYPE OF RESIDENTS FOR WHICH MAINTENANCE, PERSONAL CARE, OR NURSING IS TO BE PROVIDED; AND

- 5) SUCH INFORMATION RELATING TO THE NUMBER, EXPERIENCE, AND TRAINING OF THE EMPLOYEES OF THE FACILITY, ANY MANAGEMENT AGREEMENTS FOR THE OPERATION OF THE FACILITY, AND OF THE MORAL CHARACTER OF THE APPLICANT AND EMPLOYEES AS THE DEPARTMENT MAY DEEM NECESSARY. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-103(2))

- e) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold, or leased; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be. ~~(C)~~ A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases. ~~(C)~~

- f) EACH INITIAL APPLICATION SHALL BE ACCOMPANIED BY A FINANCIAL STATEMENT SETTING FORTH THE FINANCIAL CONDITION OF THE APPLICANT AND BY A STATEMENT FROM THE UNIT OF LOCAL GOVERNMENT HAVING ZONING JURISDICTION OVER THE FACILITY'S LOCATION STATING THAT THE LOCATION OF THE FACILITY IS NOT IN VIOLATION OF A ZONING ORDINANCE. AN INITIAL APPLICATION FOR A NEW FACILITY SHALL BE ACCOMPANIED BY A PERMIT AS REQUIRED BY THE "ILLINOIS HEALTH FACILITIES PLANNING ACT". AFTER THE APPLICATION IS APPROVED, THE APPLICANT SHALL ADVISE THE DEPARTMENT EVERY ~~6~~ SIX MONTHS OF ANY CHANGES IN THE INFORMATION ORIGINALLY PROVIDED IN THE APPLICATION. (Ill. Rev. Stat. ~~1985~~ ~~Supp.~~ 1987, ch. 111 1/2, par. 4153-103(2))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.130 Licensee

- a) The licensee is the corporate body, political subdivision, individual, or individuals responsible for the operation of the



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## Section 350.130(a) (continued)

facility and upon whom rests the responsibility for meeting the licensing requirements. The licensee does not have to own the building being used.

- b) If the licensee does not own the building, a lease or management agreement between the licensee and the owner of the building is required. A copy of the lease or management agreement shall be furnished to the Department. The Department shall also be provided with a copy of all new lease agreements or any changes to existing agreements within ~~thirty~~ thirty ~~(30)~~ days of the effective date of such changes. ~~(6)~~
- c) If the licensee is not a corporation or a political subdivision of the State of Illinois, each person responsible for the operation of the facility and upon whom rests the responsibility for meeting the licensing Minimum Standards and Rules shall be at least ~~eighteen~~ 18 years of age. ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.140 Issuance of an Initial License for a New Facility

- a) UPON RECEIPT AND REVIEW OF AN APPLICATION FOR A LICENSE AND INSPECTION OF THE APPLICANT FACILITY, THE DIRECTOR SHALL ISSUE A PROBATIONARY LICENSE IF HE FINDS:

- 1) THE APPLICANT IS A PERSON RESPONSIBLE AND SUITABLE TO OPERATE OR TO DIRECT OR PARTICIPATE IN THE OPERATION OF A FACILITY BY VIRTUE OF FINANCIAL CAPACITY, APPROPRIATE BUSINESS OR PROFESSIONAL EXPERIENCE, A RECORD OF COMPLIANCE WITH LAWFUL ORDERS OF THE DEPARTMENT AND LACK OF REVOCATION OF A LICENSE DURING THE PREVIOUS FIVE ~~(5)~~ YEARS;
  - 2) THE FACILITY IS UNDER THE SUPERVISION OF AN ADMINISTRATOR WHO IS LICENSED UNDER THE "NURSING HOME ADMINISTRATOR'S LICENSING ACT", (11. Rev. Stat. ~~1979~~ 1987, ch. 111, pars. ~~3601~~ 3551 et seq.) AS NOW OR HEREAFTER AMENDED; AND
  - 3) THE FACILITY IS IN SUBSTANTIAL COMPLIANCE WITH THE "NURSING HOME CARE REFORM ACT OF 1979", (11. Rev. Stat. ~~1979~~ 1987, ch. 111 1/2, pars. 4151-101 et seq.) AND THESE REGULATIONS.
- b) THE DEPARTMENT WILL ISSUE A PROBATIONARY LICENSE FOR ~~ONE HUNDRED~~ THIRTY ~~(120)~~ DAYS FROM DATE OF ISSUANCE.

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## Section 350.140 (continued)

- c) DURING THE ~~ONE HUNDRED TWENTY~~ (120) DAY PERIOD OF THE PROBATIONARY LICENSE, THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION OF THE APPLICANT WITHIN ~~THIRTY~~ (30) DAYS OF THE TERMINATION OF THE PROBATIONARY LICENSE TO DETERMINE WHETHER OR NOT THE APPLICANT THEN COMPLIES, AND IF NOT, WHETHER SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE. IF IN COMPLIANCE, THE PROBATIONARY LICENSE WILL BE REPLACED WITH A FULL STATUS LICENSE. IF NOT IN COMPLIANCE AND SATISFACTORY PROGRESS TOWARDS COMPLIANCE IS NOT BEING MADE, THE DEPARTMENT WILL ALLOW THE PROBATIONARY LICENSE TO EXPIRE.
- d) IF THE APPLICANT IS FOUND NOT TO BE IN COMPLIANCE BUT SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE, A SECOND PROBATIONARY LICENSE OF UP TO ~~ONE HUNDRED TWENTY~~ (120) DAYS MAY BE ISSUED. UNDER NO CONDITION MAY MORE THAN TWO ~~(2)~~ SUCCESSIVE PROBATIONARY LICENSES BE ISSUED.
- e) PRIOR TO ACTUAL RECEIPT BY THE OPERATOR OF THE LICENSE CERTIFICATE, THE OPERATOR MAY BEGIN OPERATION UPON RECEIPT OF WRITTEN APPROVAL BY THE DEPARTMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.150 Issuance of an Initial License Due to a Change of Ownership

- a) UPON RECEIPT AND REVIEW OF AN APPLICATION FOR A LICENSE THE DIRECTOR SHALL ISSUE A PROBATIONARY LICENSE IF HE FINDS:
- 1) THE APPLICANT IS A PERSON RESPONSIBLE AND SUITABLE TO OPERATE OR TO DIRECT OR TO PARTICIPATE IN THE OPERATION OF A FACILITY BY VIRTUE OF FINANCIAL CAPACITY, APPROPRIATE BUSINESS OR PROFESSIONAL EXPERIENCE, A RECORD OF COMPLIANCE WITH LAWFUL ORDERS OF THE DEPARTMENT AND LACK OF REVOCATION OF A LICENSE DURING THE PREVIOUS FIVE ~~(5)~~ YEARS;
  - 2) THE FACILITY IS UNDER THE SUPERVISION OF AN ADMINISTRATOR WHO IS LICENSED UNDER THE "NURSING HOME ADMINISTRATOR'S LICENSING AND DISCIPLINARY ACT", AS NOW OR HEREAFTER AMENDED; AND
  - 3) THE FACILITY IS IN SUBSTANTIAL COMPLIANCE WITH THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ "NURSING HOME CARE REFORM ACT OF 1979" ~~AND THIS PART~~ THESE REGULATIONS.
- b) WHENEVER OWNERSHIP OF A FACILITY IS TRANSFERRED FROM THE PERSON NAMED IN A LICENSE TO ANY OTHER PERSON, THE TRANSFEREE MUST OBTAIN A NEW

## Section 350.150(b) (continued)

PROBATIONARY LICENSE. THE TRANSFEREE SHALL NOTIFY THE DEPARTMENT OF THE TRANSFER AND APPLY FOR A NEW LICENSE AT LEAST ~~THIRTY~~ THIRTY ~~(30)~~ (30) DAYS PRIOR TO FINAL TRANSFER. ~~(C)~~

c) THE TRANSFEROR SHALL NOTIFY THE DEPARTMENT AT LEAST ~~THIRTY~~ THIRTY ~~(30)~~ (30) DAYS PRIOR TO FINAL TRANSFER. THE TRANSFEROR SHALL REMAIN RESPONSIBLE FOR THE OPERATION OF THE FACILITY UNTIL SUCH TIME AS THE LICENSE IS ISSUED TO THE NEW TRANSFEREE. ~~(C)~~

d) THE LICENSE GRANTED TO THE TRANSFEREE SHALL BE SUBJECT TO ANY PLAN OF CORRECTION SUBMITTED BY THE PREVIOUS OWNER AND APPROVED BY THE DEPARTMENT AND ANY CONDITIONS CONTAINED IN A CONDITIONAL LICENSE ISSUED TO THE PREVIOUS OWNER. IF THERE ARE OUTSTANDING VIOLATIONS AND NO PLAN OF CORRECTION HAS BEEN SUBMITTED BY THE FACILITY AND APPROVED BY THE DEPARTMENT, THE DEPARTMENT MAY ISSUE A CONDITIONAL LICENSE AND PLAN OF CORRECTION AS PROVIDED IN SECTIONS 3-311 THROUGH 3-317 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ "NURSING HOME CARE REFORM ACT OF 1979" IN PLACE OF A PROBATIONARY LICENSE. ~~(C)~~

e) THE TRANSFEROR SHALL REMAIN LIABLE FOR ALL PENALTIES ASSESSED AGAINST THE FACILITY WHICH ARE IMPOSED FOR VIOLATIONS OCCURRING PRIOR TO TRANSFER OF OWNERSHIP. ~~(C)~~

f) THE DEPARTMENT WILL ISSUE A PROBATIONARY LICENSE FOR ~~ONE HUNDRED~~ TWENTY ~~(120)~~ (120) DAYS FROM DATE OF ISSUANCE.

g) DURING THE ~~ONE HUNDRED TWENTY~~ (120) ~~(120)~~ (120) DAYS OF THE PROBATIONARY LICENSE, THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION OF THE APPLICANT WITHIN ~~THIRTY~~ (30) ~~(30)~~ (30) DAYS OF THE TERMINATION OF THE PROBATIONARY LICENSE TO DETERMINE WHETHER OR NOT THE APPLICANT THEN COMPLIES, AND IF NOT, WHETHER SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE. IF IN COMPLIANCE, THE PROBATIONARY LICENSE WILL BE REPLACED WITH A FULL STATUS LICENSE. IF NOT IN COMPLIANCE AND SATISFACTORY PROGRESS TOWARD COMPLIANCE IS NOT BEING MADE, THE DEPARTMENT WILL ALLOW THE PROBATIONARY LICENSE TO EXPIRE.

h) IF THE APPLICANT IS FOUND NOT TO BE IN COMPLIANCE BUT SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE, A SECOND PROBATIONARY LICENSE OF UP TO ~~ONE HUNDRED TWENTY~~ (120) ~~(120)~~ (120) DAYS MAY BE ISSUED, UNDER NO CONDITION MAY MORE THAN TWO ~~(2)~~ (2) SUCCESSIVE PROBATIONARY LICENSES BE ISSUED.

i) The issuance date of the probationary license to the new owner will be the date the last licensure requirement is met as determined by the department. Prior to actual receipt by the operator of the

## Section 350.150(1) (continued)

license certificate, the operator may begin operation upon receipt of written approval by the department.

(Source: Amended at 13 Ill. Reg.       , effective       )

## Section 350.160 Issuance of a Renewal License

AT LEAST ~~ONE HUNDRED TWENTY~~ (120) ~~(120)~~ (120) DAYS, BUT NOT MORE THAN ~~ONE HUNDRED~~ FIFTY ~~(150)~~ (150) DAYS, PRIOR TO LICENSE EXPIRATION, THE LICENSEE SHALL SUBMIT AN APPLICATION FOR RENEWAL OF THE LICENSE IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE DEPARTMENT REQUIRES. IF THE APPLICATION IS APPROVED, AND THE FACILITY IS IN COMPLIANCE WITH ALL OTHER LICENSE REQUIREMENTS, THE LICENSE SHALL BE RENEWED FOR AN ADDITIONAL ONE YEAR PERIOD. (See Section 14 of the Act for Municipal Licensing Requirements.) ~~(C)~~

(Source: Amended at 13 Ill. Reg.       , effective       )

## Section 350.165 Criteria for Adverse Licensure Actions

a) Adverse licensure actions are determinations to deny the issuance of an initial license, to deny the issuance of a renewal of a license, or to revoke the current license of a facility.

b) A determination by the Director or his designee to take adverse licensure action against a facility shall be based on a finding that one or more of the following criteria are met:

1) The facility has SUBSTANTIALLY FAILED TO MEET ANY OF THE MINIMUM STANDARDS SET FORTH IN THE ACT OR THESE RULES. For purposes of this provision, substantial failure is a failure to meet the requirements of this Part which is other than a variance from strict and literal performance which results only in unimportant omissions or defects given the particular circumstances involved. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(1) and 4153-119(a)(1))

2) THE LICENSEE OR APPLICANT, OR THE PERSON DESIGNATED TO MANAGE OR SUPERVISE THE FACILITY HAS BEEN CONVICTED OF any of the following crimes DURING THE PREVIOUS FIVE YEARS. Such convictions shall be verified by a CERTIFIED COPY OF THE RECORD OF THE COURT OF CONVICTION.

A) A FELONY.



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- B) TWO OR MORE MISDEMEANORS INVOLVING MORAL TURPITUDE. (Ill. Rev. Stat. ~~1985~~— 1987, ch. 111 1/2, par. 4153-117(2) and 4153-119(a)(2))

3) THE MORAL CHARACTER OF THE LICENSEE, ADMINISTRATOR, MANAGER, OR SUPERVISOR OF THE FACILITY IS NOT REPUTABLE. Evidence to be considered will include verifiable statements by residents of a facility, law enforcement officials, or other persons with knowledge of the individual's character. In addition, the definition afforded to the terms "reputable," "unreputable," and "irreputable" by the circuit courts of the State of Illinois shall apply when appropriate to the given situation. For purposes of this Section, a manager or supervisor of the facility is an individual with responsibility for the overall management, direction, coordination, or supervision of the facility or the facility staff. (Ill. Rev. Stat. ~~1985~~— 1987, ch. 111 1/2, par. 4153-117(2) and 4153-119(a)(2))

4) The facility is operating (or, for an initial applicant, intends to operate) with PERSONNEL WHICH ARE INSUFFICIENT IN NUMBER OR UNQUALIFIED BY TRAINING OR EXPERIENCE TO PROPERLY CARE FOR THE NUMBER AND TYPE OF RESIDENTS in the facility. Standards in these rules, controlling personnel training, Sections 350.810, 350.820, 350.830, 350.1220, 350.1230 and 350.1240, will be considered in making this determination. (Ill. Rev. Stat. ~~1985~~— 1987, ch. 111 1/2, par. 4153-117(3) and 4153-119(a)(3))

5) The facility has available INSUFFICIENT FINANCIAL OR OTHER RESOURCES TO OPERATE THE FACILITY IN ACCORDANCE WITH THESE RULES. Financial information and changes in financial information provided by the facility under Section 350.120(f) and under Section 3-208 of the Act will be considered in making this determination. (Ill. Rev. Stat. ~~1985~~— 1987, ch. 111 1/2, par. 4153-208)

6) THE FACILITY IS NOT UNDER THE DIRECT SUPERVISION OF A FULL-TIME ADMINISTRATOR as required by Section 350.510. (Ill. Rev. Stat. ~~1985~~— 1987, ch. 111 1/2, par. 4153-117(6) and 4153-119(a)(5))

7) The facility has violated the rights of residents of the facility by any of the following actions:

- A) A pervasive pattern of cruelty or indifference to residents has occurred in the facility.

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## Section 350.165(b)(2) (continued)

- B) The facility has appropriated or converted for its use the property of a resident without his written consent or the consent of his legal guardian.

C) The facility has secured property, or a bequest of property, from a resident by undue influence.

8) The facility knowingly submitted false information either on the licensure or renewal application forms or during the course of an inspection or survey of the facility.

9) The facility has refused to allow an inspection or survey of the facility by agents of the Department to occur.

c) The Director or his designee shall consider all available evidence at the time of the determination, including the history of the facility and the applicant in complying with the Act and these rules, notices of violations which have been issued to the facility and the applicant, findings of surveys and inspections, and any other evidence provided by the facility, residents, law enforcement officials and other interested individuals.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.170 Denial of Initial License

a) A determination by the Director or his designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 350.165 or the following criteria are met.

- 1) THE APPLICANT, ANY MEMBER OF THE FIRM, PARTNERSHIP, OR ASSOCIATION WHICH IS THE APPLICANT, ANY OFFICER OR STOCKHOLDER OF THE CORPORATION WHICH IS THE APPLICANT, OR THE PERSON DESIGNATED TO MANAGE OR SUPERVISE THE FACILITY HAS BEEN CONVICTED OF any of the following crimes DURING THE PREVIOUS FIVE YEARS. Such convictions shall be verified by A CERTIFIED COPY OF THE RECORD OF THE COURT OF CONVICTION.

A) A FELONY.

B) TWO OR MORE MISDEMEANORS INVOLVING MORAL TURPITUDE. (Ill. Rev. Stat. ~~1985~~— 1987, ch. 111 1/2, par. 4153-117(2))

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## Section 350.170(a) (continued)

- 2) Prior license revocation. Both of the following conditions must be met:

A) The license of a facility under this Act has been REVOKED DURING THE PAST FIVE YEARS, which was owned or operated BY THE APPLICANT, BY A CONTROLLING OWNER OF THE APPLICANT, BY A CONTROLLING COMBINATION OF OWNERS OF THE APPLICANT, OR BY AN AFFILIATE WHO IS A CONTROLLING OWNER OF THE APPLICANT. Operation for the purposes of this provision shall include individuals with responsibility for the overall management, direction, or supervision of the facility.

B) SUCH PRIOR REVOCATION RENDERS THE APPLICANT UNQUALIFIED OR INCAPABLE OF MAINTAINING A FACILITY IN ACCORDANCE WITH THE MINIMUM STANDARDS SET FORTH IN THE ACT OR IN THESE RULES. This determination will be based on the applicant's qualifications and ability to meet the criteria outlined in Section 350.165(b) as evidenced by the application and the applicant's prior history. (Ill. Rev. Stat. ~~1995~~ 1987, ch. 111 1/2, par. 4153-117(5))

- b) The Department shall notify an applicant IMMEDIATELY UPON DENIAL OF ANY APPLICATION. Such notice shall be IN WRITING and shall include:

1) A CLEAR AND CONCISE STATEMENT of the basis of the denial. The statement shall include a citation to the provisions of Section 3-117 of the Act and the provisions of these rules under which the application is being denied.

2) A description of THE RIGHT OF THE APPLICANT TO APPEAL THE DENIAL OF THE APPLICATION and the right to a hearing. (Ill. Rev. Stat. ~~1995~~ 1987, ch. 111 1/2, par. 4153-118)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.175 Denial of Renewal of License

a) Application for renewal of a license of a facility shall be denied and the license of the facility shall be allowed to expire when the Director or his designee finds that a condition, occurrence, or situation in the facility meets any of the criteria specified in Section 350.165(b).

b) When the Director or his designee determines that an application for

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## Section 350.175(b) (continued)

renewal of a license of a facility is to be denied, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:

1) A CLEAR AND CONCISE STATEMENT of the basis of the denial. The statement shall include a citation to the provisions of the Act and these rules on which the application for renewal is being denied.

2) A statement of the date on which the current license of the facility will expire as provided in Subsection (c) of this Section and Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).

3) A description of THE RIGHT OF THE APPLICANT TO APPEAL THE DENIAL OF THE APPLICATION FOR RENEWAL AND THE RIGHT TO A HEARING. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(b))

c) The effective date of the nonrenewal of a license shall be as provided in Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).

d) The current license of the facility shall be EXTENDED BY THE DEPARTMENT when it finds that such extension is necessary TO PERMIT ORDERLY REMOVAL AND RELOCATION OF RESIDENTS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)(3))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.180 Revocation of License

a) The license of a facility shall be revoked when the Director or his designee finds that a condition, occurrence or situation in the facility meets any of the criteria specified in Section 350.165(b). In addition, the license of a facility will be revoked when the facility fails to abate or eliminate a level A violation as provided in Section 350.282(b).

b) When the Director or his designee determines that the license of a facility is to be revoked, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:

1) A CLEAR AND CONCISE STATEMENT of the basis of the revocation. The statement shall include a citation to the provisions of the



## Section 350.180(b)(1) (continued)

Act and these rules on which the license is being revoked.

- 2) A statement of the date on which the revocation will take effect as provided in Subsection (c) of this Section and Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).
- 3) A description of THE RIGHT OF THE FACILITY TO APPEAL THE REVOCATION OF THE LICENSE AND THE RIGHT TO A HEARING. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(b))
- c) The effective date of the revocation of a license shall be as provided in Section 3-119(d) of the Act. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d))
- d) The effective date of the revocation shall be EXTENDED BY THE DEPARTMENT when it finds that such extension is necessary TO PERMIT ORDERLY REMOVAL AND RELOCATION OF RESIDENTS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)(3))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.190 Experimental Program Conflicting With Requirements

- a) Any facility desiring to conduct an experimental program or do research which is in conflict with this Part ~~these regulations~~ shall submit a written request to the Department and secure prior approval. The Department will not approve experimental programs which would violate residents rights under the Act. (A, B)
- b) The Department may grant to a facility special permission to provide day care when it has adequate facilities and staff to satisfactorily provide such services based on the requirements in Section 350.4210. ~~(See Guidelines in Appendix G.)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.200 Inspections, Surveys, Evaluations and Consultation

- a) The terms survey, inspection and evaluation are synonymous. These terms refer to the overall examination of compliance with the Act and the regulations in this Part. All facilities to which this Part applies shall be subject to and shall be deemed to have given consent to annual inspections, surveys evaluations by properly identified

## Section 350.200(a) (continued)

personnel of the Department, or by such other properly identified persons, including local health department staff, as the Department may designate. AN INSPECTION, SURVEY OR EVALUATION, OTHER THAN AN INSPECTION OF FINANCIAL RECORDS SHALL BE UNANNOUNCED. CONSULTATIONS MAY BE ANNOUNCED (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-212(~~d~~—a)). The licensee, or person representing the licensee in the facility, shall provide to the representative of the Department access and entry to the premises or facility for obtaining information required to carry out this Act and the rules promulgated under the Act. IN ADDITION, REPRESENTATIVE OF THE DEPARTMENT SHALL HAVE ACCESS TO AND MAY REPRODUCE OR PHOTOCOPY AT THE DEPARTMENT'S COST ANY BOOKS, RECORDS, AND OTHER DOCUMENTS MAINTAINED BY THE FACILITY, THE LICENSEE OR THEIR REPRESENTATIVES TO THE EXTENT NECESSARY TO CARRY OUT THIS ACT AND THE RULES PROMULGATED THEREUNDER. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-213). A facility may charge the Department for such photocopying at a rate determined by the facility not to exceed the rate in the Department's Freedom of Information Rules - 2 Ill. Adm. Code 1126. ~~(G)~~

- b) BEFORE MAKING MORE THAN THE REQUIRED NUMBER OF INSPECTIONS, SURVEYS AND EVALUATIONS OF A FACILITY, THE DEPARTMENT SHALL HAVE TAKEN INTO ACCOUNT THE FOLLOWING CRITERIA:

- 1) PREVIOUS INSPECTION REPORTS;
- 2) THE FACILITY'S HISTORY OF COMPLIANCE WITH THE ACT:
  - A) PRIOR CORRECTION OF VIOLATIONS;
  - B) PRIOR ENFORCEMENT ACTIONS;
  - C) NUMBER AND SEVERITY OF PRIOR COMPLAINTS;
- 3 NUMBER AND SEVERITY OF CURRENT COMPLAINTS;
- 4) ALLEGATIONS OF RESIDENT ABUSE OR NEGLIGENCE;
- 5) COMPLIANCE WITH DISASTER PREPAREDNESS PROVISIONS UNDER THE ACT;
- 6) OTHER REASONABLE BELIEF THAT DEFICIENCIES REGARDING THE ACT EXIST; ~~AND/OR~~ OR
- 7) requirements pursuant to the "1864 Agreement" (42 U.S.C.A. 1395aa) between the Department and U.S. Health and Human Services (HHS) (e.g. annual and follow-up certification

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inspections, life safety code inspections and any inspections requested by the Secretary of HHS). (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4153-212(b)) ~~(C)~~

determined by the Department for each individual facility.

- c) Upon the completion of each inspection, survey and evaluation, the representative of the Department who conducted the inspection, survey or evaluation shall submit a copy of their report to the licensee or their representative, upon exiting the facility. A copy of the information gathered during a complaint investigation will no be provided upon exiting the facility. COMMENTS OR DOCUMENTATION PROVIDED BY THE LICENSEE WHICH MAY REFUTE FINDINGS IN THE REPORT, WHICH EXPLAIN EXTENUATING CIRCUMSTANCES THAT THE FACILITY COULD NOT REASONABLY HAVE PREVENTED, OR WHICH INDICATE METHODS AND TIMETABLES FOR CORRECTION OF DEFICIENCIES DESCRIBED IN THE REPORT SHALL BE PROVIDED TO THE DEPARTMENT WITHIN ~~10~~ TEN DAYS OF RECEIPT OF THE COPY OF THE REPORT. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch 111 1/2, par. 4153-212(c)).

- d) The financial statement shall be filed with the Department within ~~ninety~~ ~~(90)~~ days following the end of the designated reporting period. ~~(C)~~ The financial statement will not be considered as having been filed unless all sections of the prescribed forms have been properly completed. Those sections which do not apply to a particular facility shall be noted "not applicable" on the forms. ~~(C)~~

- e) The information required to be submitted in the financial statement will include, but is not limited to, the following:

- 1) Facility information, including: facility name and address, licensure information, type of ownership, licensed bed capacity, date and cost of building construction and additions, date and cost of acquisition of buildings, building sizes, equipment costs and dates of acquisition. ~~(C)~~
- 2) Resident information, including: number and level of care of residents by source of payment, income from residents by level of care. ~~(C)~~
- 3) Cost information by level of care, including:
  - A) General service costs; such as dietary, food, housekeeping, laundry, utilities, and plant operation and maintenance. ~~(C)~~
  - B) Health care costs; such as medical director, nursing, medications, oxygen, activities, medical records, other medical services, social services, and utilization reviews. ~~(C)~~
  - C) General Administration; such as administrative salaries, professional services, fees, subscriptions, promotional, insurance, travel, clerical, employee benefits, license fees, and inservice training and education. ~~(C)~~
  - D) Ownership; such as depreciation, interest, taxes, rent, and leasing. ~~(C)~~
  - E) Special Service cost centers; such as rehabilitative and rehabilitative services, therapies, transportation, education, barber and beauty care, and gift and coffee

- d) Consultation consists of providing advice or suggestions to the staff of a facility at their request relative to specific matters of the scope of regulation, methods of compliance with the Act or rules ~~and/or~~ and general matter of patient care.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.210 Filing an Annual Attested Financial Statement

- a) EACH LICENSEE SHALL SUBMIT AN ANNUAL ATTESTED FINANCIAL STATEMENT TO THE DEPARTMENT. THIS FINANCIAL STATEMENT SHALL BE FILED IN A PRESCRIBED FORMAT ON FORMS SUPPLIED BY THE DEPARTMENT. THE FORMS WILL BE DEVELOPED IN CONJUNCTION WITH THE ILLINOIS DEPARTMENT OF PUBLIC AID. ~~(C)~~ The time period covered in the financial statement shall be a period determined by the Department for the initial filing, and shall thereafter coincide with the facility's fiscal year or the calendar year. ~~(C)~~

- b) The Department may require any facility to file an audited financial statement, if the Department determines that such a statement is needed.

- c) The Department may require any or all facilities to submit attested or audited financial statements more frequently than annually, if the Department determines that more frequent financial statements are needed. The frequency and time period of such filings shall be as



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- shop. ~~(c)~~
- 4) Income information, including operating and nonoperating income. ~~(c)~~
  - 5) Ownership information, including balance sheet and payment to owners. ~~(c)~~
  - 6) Personnel information, including the number and type of people employed and salaries paid. ~~(c)~~
  - 7) Related organization information, including related organizations from which services are purchased. ~~(c)~~

f) The new owner or a new lessee of a previously licensed facility may file a projection of capital costs at the time of closing or signing of the lease.

- 1) A facility which is licensed for the first time (a newly constructed facility) must file a projection of capital costs.
- 2) Each of the above must file a full cost report within nine ~~(9)~~ months after acquisition (covering the first six ~~(6)~~ months of operation). Each must also file a cost report within ~~ninety~~ ~~(90)~~ days of the close of its first complete fiscal year. ~~(c)~~

g) NO PUBLIC FUNDS SHALL BE EXPENDED FOR THE MAINTENANCE OF ANY RESIDENT IN ANY FACILITY WHICH HAS FAILED TO FILE THIS FINANCIAL STATEMENT, AND NO PUBLIC FUNDS SHALL BE PAID TO, OR ON BEHALF OF, A FACILITY WHICH HAS FAILED TO FILE THE STATEMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.220

Information to Be Made Available to the Public By the  
Department

- a) THE DEPARTMENT SHALL RESPECT THE CONFIDENTIALITY OF A RESIDENT'S RECORD AND SHALL NOT DIVULGE OR DISCLOSE THE CONTENTS OF A RECORD IN A MANNER WHICH IDENTIFIES A RESIDENT, EXCEPT UPON A RESIDENT'S DEATH TO A RELATIVE OR GUARDIAN, OR UNDER JUDICIAL PROCEEDINGS. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF A RESIDENT OR A RESIDENT'S REPRESENTATIVE TO INSPECT OR COPY THE RESIDENT'S RECORDS.

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## Section 350.220 (continued)

- b) CONFIDENTIAL MEDICAL, SOCIAL, PERSONAL OR FINANCIAL INFORMATION IDENTIFYING A RESIDENT SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION IN A MANNER WHICH IDENTIFIES A RESIDENT. ~~(c)~~
- c) THE FOLLOWING INFORMATION IS SUBJECT TO DISCLOSURE TO THE PUBLIC FRC THE DEPARTMENT OR THE DEPARTMENT OF PUBLIC AID:
  - 1) INFORMATION SUBMITTED UNDER SECTIONS 3-103 AND 3-207 OF THE ACT EXCEPT INFORMATION CONCERNING THE REMUNERATION OF PERSONNEL LICENSED, REGISTERED, OR CERTIFIED BY THE DEPARTMENT OF ~~REGISTRATION AND EDUCATION~~ PROFESSIONAL REGULATION AND MONTHLY CHARGES FOR AN INDIVIDUAL PRIVATE RESIDENT;
  - 2) RECORDS OF LICENSE AND CERTIFICATION INSPECTIONS, SURVEYS, AND EVALUATIONS OF FACILITIES, OTHER REPORTS OF INSPECTIONS, SURVEYS, AND EVALUATIONS OF RESIDENT CARE, AND REPORTS CONCERNING A FACILITY PREPARED PURSUANT TO TITLES XVIII AND XIX OF THE SOCIAL SECURITY ACT, (42 U.S.C.A. 1395 et seq. and 1396 et seq.) SUBJECT TO THE PROVISIONS OF THE SOCIAL SECURITY ACT (42 U.S.C.A. 301 et seq.);
  - 3) COST AND REIMBURSEMENT REPORTS SUBMITTED BY A FACILITY UNDER SECTION 3-208 OF THE ACT REPORTS OF AUDITS OF FACILITIES, AND OTHER PUBLIC RECORDS CONCERNING THE COST INCURRED BY, REVENUES RECEIVED BY, AND REIMBURSEMENT OF FACILITIES;
  - 4) COMPLAINTS FILED AGAINST A FACILITY AND COMPLAINT INVESTIGATION REPORTS, EXCEPT THAT A COMPLAINT OR COMPLAINT INVESTIGATION REPORT SHALL NOT BE DISCLOSED TO A PERSON OTHER THAN THE COMPLAINANT OR COMPLAINANT'S REPRESENTATIVE BEFORE IT IS DISCLOSED TO A FACILITY UNDER SECTION 3-702 OF THE ACT, AND, FURTHER, EXCEPT THAT A COMPLAINANT OR RESIDENT'S NAME SHALL NOT BE DISCLOSED EXCEPT UNDER SECTION 3-702 OF THE ACT.
  - 5) THE DEPARTMENT SHALL DISCLOSE INFORMATION UNDER THIS SECTION IN ACCORDANCE WITH PROVISIONS FOR INSPECTION AND COPYING OF PUBLIC RECORDS REQUIRED BY THE FREEDOM OF INFORMATION ACT (Ill. Rev. Stat. ~~1984 Supp.~~ 1987, ch. 116, par. 201 et seq.); AND
  - 6) HOWEVER, THE DISCLOSURE OF INFORMATION DESCRIBED IN SUBSECTION (1) SHALL NOT BE RESTRICTED BY ANY PROVISION OF THE FREEDOM OF INFORMATION ACT (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. ~~4153-205~~ 4152-205(4)).
- d) Copies of reports available to the public may be obtained by making

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## NOTICE OF PROPOSED AMENDMENTS

## Section 350.220(d) (continued)

written request to the Department in accordance with the Department's Freedom of Information Rules -- 2 Ill. Adm. Code 1126. However, access to cost reports shall be governed by Department of Public Aid rule "Access to Cost Reports" (89 Ill. Adm. Code 140.544). The Department may, at its discretion, waive this fee if the party requesting the material is involved in legal action with the Department.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.230 Information to Be Made Available to the Public By the Licensee

a) EVERY FACILITY SHALL CONSPICUOUSLY POST OR DISPLAY IN AN AREA OF IT ACCESSIBLE TO RESIDENTS, EMPLOYEES, AND VISITORS THE FOLLOWING:

- 1) ITS CURRENT LICENSE; ~~(C)~~
  - 2) A DESCRIPTION, PROVIDED BY THE DEPARTMENT OF COMPLAINT PROCEDURES ESTABLISHED UNDER THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ AND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A PERSON AUTHORIZED BY THE DEPARTMENT TO RECEIVE COMPLAINTS; ~~(C)~~
  - 3) A COPY OF ANY ORDER PERTAINING TO THE FACILITY ISSUED BY THE DEPARTMENT OF A COURT; AND ~~(C)~~
  - 4) A LIST OF THE MATERIAL AVAILABLE FOR PUBLIC INSPECTION UNDER SECTION 3-210 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~. ~~(C)~~
- b) A FACILITY SHALL RETAIN THE FOLLOWING FOR PUBLIC INSPECTION:
- 1) A COMPLETE COPY OF EVERY INSPECTION REPORT OF THE FACILITY RECEIVED FROM THE DEPARTMENT DURING THE PAST FIVE ~~(5)~~ YEARS; ~~(C)~~
  - 2) A COPY OF EVERY ORDER PERTAINING TO THE FACILITY ISSUED BY THE DEPARTMENT OR A COURT DURING THE PAST FIVE ~~(5)~~ YEARS; ~~(C)~~
  - 3) A DESCRIPTION OF THE SERVICES PROVIDED BY THE FACILITY AND THE RATES CHARGED FOR THOSE SERVICES AND ITEMS FOR WHICH A RESIDENT MAY BE SEPARATELY CHARGED; ~~(C)~~

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## Section 350.230(b) (continued)

- 4) A COPY OF THE STATEMENT OF OWNERSHIP REQUIRED BY SECTION 3-207 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~; ~~(C)~~
- 5) A RECORD OF PERSONNEL EMPLOYED OR RETAINED BY THE FACILITY WHO ARE LICENSED, CERTIFIED OR REGISTERED BY THE DEPARTMENT OF ~~REGISTRATION AND EDUCATION~~ PROFESSIONAL REGULATION; AND ~~(C)~~
- 6) A COMPLETE COPY OF THE MOST RECENT INSPECTION REPORT OF THE FACILITY RECEIVED FROM THE DEPARTMENT. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.240 Municipal Licensing

- a) Municipalities which have adopted a licensing ordinance as provided under Section 3-104 of the ~~"Nursing Home Care Reform Act of 1979"~~ and this Part ~~these regulations~~ shall adopt this Part ~~these Minimum Standards and Rules for Intermediate Care Facilities for the Developmentally Disabled by reference~~ by complying with Article I ~~and~~ Division 3, of the "Illinois Municipal Code" (Ill. Rev. Stat. 1987 ~~1983~~, ch. 24, pars. 1-3-1 through 1-3-6.)
- b) Municipalities shall issue licenses so that the expiration dates are distributed throughout the calendar year. The month the license expires shall coincide with the date of original licensure of the licensee. During the ~~twenty-four (24)~~ month period following the effective date of the ~~"Nursing Home Care Reform Act of 1979"~~, the municipality may issue renewal licenses for a period of less than one ~~(1)~~ year in order to distribute the expiration date of such licenses throughout the calendar year.
- c) The municipality shall notify the Department within ten ~~(10)~~ days from the date of issuance or denial of a license that the municipal license has been issued or denied. If the license is issued the notice will include the facility name, address, the date of issuance and the number of beds by level of care for which the license was issued. If the license is denied the notice will indicate reason for denial and the current status of licensee's (applicant's) application for municipal license.
- d) THE MUNICIPALITY SHALL USE THE SAME LICENSING CLASSIFICATIONS AS THE DEPARTMENT; AND A FACILITY MAY NOT BE LICENSED FOR A DIFFERENT CLASSIFICATION BY THE DEPARTMENT THAN BY THE MUNICIPALITY.



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## Section 350.240 (continued)

- e) THE DEPARTMENT AND THE MUNICIPALITY SHALL HAVE THE RIGHT AT ANY TIME TO VISIT AND INSPECT THE PREMISES AND PERSONNEL OF ANY FACILITY FOR THE PURPOSE OF DETERMINING WHETHER THE APPLICANT OR LICENSEE IS IN COMPLIANCE WITH THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~, THESE REGULATIONS OR WITH THE LOCAL ORDINANCES WHICH GOVERN THE REGULATION OF THE FACILITY. THE DEPARTMENT MAY SURVEY ANY FORMER FACILITY WHICH ONCE HELD A LICENSE TO INSURE THAT THE FACILITY IS NOT AGAIN OPERATING WITHOUT A LICENSE. MUNICIPALITIES MAY CHARGE A REASONABLE LICENSE OR RENEWAL FEE FOR THE REGULATION OF FACILITIES, WHICH FEES SHALL BE IN ADDITION TO THE FEES PAID TO THE DEPARTMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.250 Ownership Disclosure

- a) AS A CONDITION OF THE ISSUANCE OR RENEWAL OF THE LICENSE OF ANY FACILITY, THE APPLICANT SHALL FILE A STATEMENT OF OWNERSHIP. THE APPLICANT SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE IN ~~AGREE-TO-UPDATE~~ THE INFORMATION REQUIRED IN THE STATEMENT OF OWNERSHIP WITHIN TEN DAYS OF THE CHANGE. (111. Rev. Stat. 1987, ch. 111 1/2, par. 4153-207(a)) ~~EVERY SIX (6) MONTHS FROM THE INITIAL DATE OF FILING IF THERE IS ANY CHANGE.~~ (C)
- b) A STATEMENT OF OWNERSHIP SHALL INCLUDE THE FOLLOWING:
- 1) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five ~~(5)~~ percent or more in the legal entity designated as the operator/licensee of the facility which is the subject of the application or license; ~~(C)~~
  - 2) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five ~~(5)~~ percent or more in the legal entity that owns the building in which the operator/licensee is operating the facility which is the subject of the application or license; and ~~(C)~~
  - 3) THE ADDRESS OF ANY FACILITY, WHEREVER LOCATED, IN WHICH ANY

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## Section 350.250(b)(3) (continued)

APPLICANT HAS ANY OWNERSHIP INTEREST. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.260 Issuance of Conditional Licenses

- a) THE DIRECTOR MAY ISSUE A CONDITIONAL LICENSE TO ANY FACILITY IF THE DIRECTOR FINDS THAT EITHER A TYPE "A" OR TYPE "B" VIOLATION EXISTS IN SUCH FACILITY. THE ISSUANCE OF A CONDITIONAL LICENSE SHALL REVOKE ANY LICENSE HELD BY THE FACILITY.
- b) PRIOR TO THE ISSUANCE OF A CONDITIONAL LICENSE, THE DEPARTMENT SHALL REVIEW AND APPROVE A WRITTEN PLAN OF CORRECTION. THE DEPARTMENT SHALL SPECIFY THE VIOLATIONS WHICH PREVENT FULL LICENSE AND SHALL ESTABLISH A TIME SCHEDULE FOR CORRECTION OF THE DEFICIENCIES. RETENTION OF THE LICENSE SHALL BE CONDITIONAL UPON THE CORRECTION OF THE DEFICIENCIES IN ACCORDANCE WITH THE PLAN OF CORRECTION. (111. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-312).
- c) WRITTEN NOTICE OF THE DECISION TO ISSUE A CONDITIONAL LICENSE SHALL BE SENT TO THE APPLICANT OR LICENSEE TOGETHER WITH THE SPECIFICATION OF ALL VIOLATIONS OF THIS ACT AND THE RULES PROMULGATED THEREUNDER WHICH PREVENT FULL LICENSE AND WHICH FORM THE BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A CONDITIONAL LICENSE AND THE REQUIRED PLAN OF CORRECTION. THE NOTICE SHALL INFORM THE APPLICANT OR LICENSEE OF ITS RIGHT TO A FULL HEARING UNDER SECTION 3-315 OF THE ACT TO CONTEST THE ISSUANCE OF THE CONDITIONAL LICENSE. (111. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-~~312~~ 313).
- d) IF THE FACILITY DESIRES TO HAVE AN INFORMAL CONFERENCE, IT SHALL, WITHIN FOUR ~~(4)~~ WORKING DAYS FROM RECEIPT OF THE NOTICE UNDER THE ACT, SEND A WRITTEN REQUEST FOR AN INFORMAL CONFERENCE TO THE DEPARTMENT. THE DEPARTMENT SHALL, WITHIN FOUR ~~(4)~~ WORKING DAYS FROM THE RECEIPT OF THE REQUEST, HOLD AN INFORMAL CONFERENCE. FOLLOWING THIS CONFERENCE, THE DEPARTMENT MAY AFFIRM OR OVERRULE ITS PREVIOUS DECISION, OR MODIFY THE TERMS OF THE CONDITIONAL LICENSE AND PLAN OF CORRECTION. THE CONDITIONAL LICENSE MAY BE ISSUED AFTER THE INFORMAL CONFERENCE OR AFTER THE TIME FOR REQUESTING AN INFORMAL CONFERENCE HAS EXPIRED, PRIOR TO ANY FURTHER HEARING.
- e) IF THE APPLICANT OR LICENSEE DESIRES TO PROTEST THE BASIS FOR ISSUANCE OF A CONDITIONAL LICENSE, OR THE TERM OF THE LICENSE OR PLAN OF CORRECTION, THE APPLICANT OR LICENSEE SHALL SEND A WRITTEN REQUEST FOR HEARING TO THE DEPARTMENT WITHIN TEN ~~(10)~~ DAYS AFTER RECEIPT

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## Section 350.260(e) (continued)

BY THE APPLICANT OF LICENSEE OF THE DEPARTMENT'S NOTICE AND DECISION TO ISSUE A CONDITIONAL LICENSE. THE DEPARTMENT SHALL HOLD THE HEARING AS PROVIDED UNDER THE ACT. (111. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-316-315)

- f) A CONDITIONAL LICENSE SHALL BE ISSUED FOR A PERIOD SPECIFIED BY THE DEPARTMENT, BUT IN NO EVENT FOR MORE THAN ONE ~~(1)~~ YEAR. THE DEPARTMENT SHALL PERIODICALLY INSPECT ANY FACILITY OPERATING UNDER A CONDITIONAL LICENSE. IF THE DEPARTMENT FINDS SUBSTANTIAL FAILURE BY THE FACILITY TO CORRECT THE VIOLATIONS WHICH PREVENTED FULL LICENSE AND FORMED THE BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A CONDITIONAL LICENSE IN ACCORDANCE WITH THE REQUIRED PLAN OF CORRECTION, THE CONDITIONAL LICENSE MAY BE REVOKED AS PROVIDED UNDER THE ACT (111. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-316).

- g) IF THE DEPARTMENT DETERMINES THAT A CONDITIONAL LICENSE SHALL EXPIRE WITHOUT RENEWAL OR REPLACEMENT OF THE CONDITIONAL LICENSE BY A REGULAR LICENSE, THE DEPARTMENT SHALL SO NOTIFY THE LICENSEE AT LEAST ~~THIRTY (30)~~ DAYS PRIOR TO EXPIRATION OF THE LICENSE. THE LICENSEE IS ENTITLED TO A HEARING UNDER THE ACT IF REQUESTED PRIOR TO EXPIRATION OF THE LICENSE.

(Source: Amended at 13 111. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.270 Monitor and Receivership

- a) THE DEPARTMENT MAY PLACE AN EMPLOYEE OR AGENT TO SERVE AS A MONITOR IN A FACILITY WHEN ANY OF THE FOLLOWING CONDITIONS EXIST:

- 1) THE FACILITY IS OPERATING WITHOUT A LICENSE;
- 2) THE DEPARTMENT HAS SUSPENDED, REVOKED OR REFUSED TO RENEW THE EXISTING LICENSE OF THE FACILITY;
- 3) THE FACILITY IS CLOSING OR HAS INFORMED THE DEPARTMENT THAT IT INTENDS TO CLOSE AND ADEQUATE ARRANGEMENTS FOR RELOCATION OF RESIDENTS HAVE NOT BEEN MADE AT LEAST 30 DAYS PRIOR TO CLOSURE; OR
- 4) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS, WHETHER OR NOT IT HAS INITIATED REVOCATION OR NONRENEWAL PROCEDURES, IF BECAUSE OF THE UNWILLINGNESS OF INABILITY OF THE LICENSEE TO REMEDY THE EMERGENCY THE DEPARTMENT BELIEVES A MONITOR IS

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## Section 350.270(a)(4) (continued)

NECESSARY; or

- 5) The Department receives notification that THE FACILITY IS TERMINATED OR WILL NOT BE RENEWED FOR PARTICIPATION IN THE FEDERAL REIMBURSEMENT PROGRAM UNDER EITHER TITLE XVIII (Medicaid) OR TITLE XIX (Medicare) OF THE SOCIAL SECURITY ACT. (111. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4153-501)

b) The monitor shall meet the following minimum requirements:

- 1) be in good physical health as evidenced by a physical examination by a physician within the last year;
- 2) have an understanding of the needs of nursing home residents as evidenced by one year of experience in working with the elderly in programs such as patient care, social work or advocacy;
- 3) have an understanding of the ~~Nursing Home Care Reform~~ Act and this Part ~~the rules and regulations promulgated to enforce the Act~~ which are the subject of the monitor's duties as evidenced in a personal interview of the candidate;

- 4) not be related to the owners of the involved facility either blood, marriage or common ownership of real or personal property except ownership of stock that is traded on a stock exchange;

- 5) successfully completed a baccalaureate degree; ~~and/or~~ and

- 6) two years full-time work experience in the long-term care industry of the State of Illinois.

c) The monitor shall be under the supervision of the ~~Division of Enforcement, Office of Health Regulation, Illinois~~ Department of ~~Public Health~~; shall perform the duties of a monitor delineated in Section 3-502 of the Act; and accomplish the following actions:

- 1) visit the facility at least five ~~(5)~~ days per week or as directed by the Department;
- 2) review all records pertinent to the condition for such monitor's placement under subsection (a) of this Section ~~above~~;
- 3) provide to the Department ~~Division of Enforcement, Office of Health Regulation~~, a weekly written report and a daily oral report detailing the observed conditions of the facility; and



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## Section 350.270(c) (continued)

- 4) shall be available as a witness for hearings involving the condition for placement as monitor.
- d) All communications, including but not limited to data, memoranda, correspondence, records and reports shall be transmitted to and become the property of the Department, plus, findings and results of the monitor's work done under these rules and regulations shall be strictly confidential and not subject to disclosure without written authorization from the Department ~~Division of Enforcement, Office of Health Regulation~~, or by court order subject to disclosure only in accordance with the provisions of the Freedom of Information Act, subject to the confidentiality requirements of the ~~Nursing Home Care Reform Act of 1979~~.
- e) The assignment as monitor may be terminated at any time by the ~~Department Division of Enforcement, Office of Health Regulation~~.
- f) Through consultation with the long-term care industry associations, professional organizations, consumer groups and health-care management corporations, the Department shall maintain a list of receivers. Preference on the list shall be given to individuals possessing a valid Illinois Nursing Home Administrator's License, experience in financial and operations management of a long-term care facility and individuals with access to consultative experts with the aforementioned experience. To be placed on the list, individuals must meet the following minimum requirements:
  - 1) be in good physical health as evidenced by a physical examination by a physician within the last year;
  - 2) have an understanding of the needs of nursing home residents and the delivery of the highest possible quality of care as evidenced by one year of experience in working with the elderly in programs such as patient care, social work or advocacy;
  - 3) have an understanding and working knowledge of the Act and this ~~part, rules and regulations promulgated thereunder as evidenced in a personal interview of the candidate~~;
  - 4) have successfully completed a baccalaureate degree; and
  - 5) have two years full-time working experience in the Illinois long-term care industry.
- g) Upon appointment of a receiver for a facility by a court, the

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## Section 350.270(g) (continued)

- Department shall inform the individual of all legal proceedings to date which concern the facility.
- h) The receiver may request that the Director of the Department authorize expenditures from monies appropriated, pursuant to Section 3-511 of the Act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.
  - i) In the case of Department ordered patient transfers, the receiver may:
    - 1) assist in providing for the orderly transfer of all residents in the facility to other suitable facilities, or make other provisions for their continued health;
    - 2) assist in providing for transportation of the resident, his medical records and his belongings if he is transferred or discharged; assist in locating alternative placement; assist in preparing the resident for transfer; and permit the resident's legal guardian to participate in the selection of the resident's new location;
    - 3) unless emergency transfer is necessary, explain alternative placements to the resident and provide orientation to the place chosen by the resident or resident's guardian.
  - j) IN ANY ACTION OR SPECIAL PROCEEDING BROUGHT AGAINST A RECEIVER IN THE RECEIVER'S OFFICIAL CAPACITY FOR ACTS COMMITTED WHILE CARRYING OUT THE AFORESAID POWERS AND DUTIES, THE RECEIVER SHALL BE CONSIDERED A PUBLIC EMPLOYEE UNDER THE LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT (Ill. Rev. Stat. ~~1983~~ 1987, ch. 85, par. 1-101 et. seq.). A RECEIVER MAY BE HELD LIABLE IN A PERSONAL CAPACITY ONLY FOR THE RECEIVER'S OWN GROSS NEGLIGENCE, INTENTIONAL ACTS OR BREACH OF JUDICIARY DUTY. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-513)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 350.272  
Determination to Issue a Notice of Violation or  
Administrative Warning

- a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director or his designee shall review the findings contained in the report to determine WHETHER THE REPORT'S FINDINGS CONSTITUTE A VIOLATION OR VIOLATIONS OF WHICH THE FACILITY MUST BE

## Section 350.272(a) (continued)

GIVEN NOTICE AND WHICH THREATEN THE HEALTH, SAFETY, OR WELFARE OF A RESIDENT OR RESIDENTS. All information, evidence, and observations made during an inspection, survey or evaluation shall be considered findings or deficiencies.

b) In making this determination, the Director or his designee shall consider any COMMENTS AND DOCUMENTATION PROVIDED BY THE FACILITY within ~~10~~ ten days of receipt of the report in accordance with Section 350.200(c).

c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his designee shall base his determination on the following factors:

- 1) THE SEVERITY OF THE FINDING. The Director or his designee will consider whether the finding constitutes a merely technical non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the standard.
- 2) THE DANGER POSED TO RESIDENT HEALTH AND SAFETY. The Director or his designee will consider whether the finding could pose any direct ~~or indirect~~ harm to the residents.
- 3) THE DILIGENCE AND EFFORTS TO CORRECT DEFICIENCIES AND CORRECTION OF REPORTED DEFICIENCIES BY THE FACILITY. Consideration will be given to any evidence provided by the facility in its comments and documentation that steps have been taken to reduce noted findings and to insure a reduction of deficiencies.
- 4) THE FREQUENCY AND DURATION OF SIMILAR FINDINGS IN PREVIOUS REPORTS AND THE FACILITY'S GENERAL INSPECTION HISTORY. The director or his designee will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-212(c))

d) If the Director or his designee determines that the report's findings constitute a violation or violations which do not directly threaten the health, safety, or welfare of a resident or residents, the DEPARTMENT SHALL ISSUE AN ADMINISTRATIVE WARNING as provided in Section 350.277. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(a))

## Section 350.272 (continued)

e) ~~d~~ VIOLATIONS SHALL BE DETERMINED UNDER THIS SECTION NO LATER THAN 60 DAYS AFTER COMPLETION OF EACH INSPECTION, SURVEY AND EVALUATION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-212(c))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.274 Determination of the Level of a Violation

- a) After determining that issuance of a notice of violation is warranted and prior to issuance of the notice, the Director or his designee will review the findings which are the basis of the violation and any comments and documentation provided by the facility to determine the level of the violation. Each violation shall be determined to be either a level A ~~or~~ level B ~~or level C~~ violation based on the criteria outlined in this Section.
- b) The following definitions of levels of violations shall be used in determining the level of each violation:

- 1) A "level A violation" or "type A violation" is A VIOLATION OF THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY PRESENTING A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS MENTAL OR PHYSICAL HARM WILL RESULT THEREFROM. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4151-129)
- 2) A "level B violation" or "type B violation" is A VIOLATION OF THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY DIRECTLY THREATENING TO THE HEALTH, SAFETY OR WELFARE OF A RESIDENT. (Ill. Rev. Stat., ~~1985~~ 1987, ch. 111 1/2, par. 4151-130)
- ~~3) A "level C violation" or "type C violation" is A VIOLATION OF THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY WHICH INDIRECTLY THREATENS THE HEALTH, SAFETY OR WELFARE OF A RESIDENT. (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 4151-131)~~

c) In determining the level of a violation, the Director or his designee shall consider the following criteria:

- 1) The specific requirements of this Part which have been violated and the designated level of violation for those provisions.



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## Section 350.274(c)(1) (continued)

A) The designated level of violation is indicated by the letter or letters in parentheses following specific provisions. The presence of more than one letter following a specific provision indicates that the provision may be applicable to different levels of violation. The absence of any letter following a specific provision indicates that no designated level of violation applicable to that provision has been determined.

B) The designated level of violation will be considered in conjunction with the other criteria contained in subsections (c)(2) and (c)(3) of this Section which may increase or decrease the level of violation cited for a specific violation, except that no violation ~~of a~~ ~~requirement designated as level C~~ will be cited as a level B violation unless there is a direct threat to the health, safety or welfare of a resident, or as a level A violation unless there is a substantial probability of the death of a resident or serious mental or physical harm to a resident.

2) The degree of danger to the resident or residents which is posed by the condition or occurrence in the facility. The following factors will be considered in assessing the degree of danger:

- A) Whether the resident or residents of the facility are able to recognize conditions or occurrences which may be harmful and are able to take measures for self-preservation and self-protection. The extent of nursing care required by the residents as indicated by review of patient needs will be considered in relation to this determination.
- B) Whether the resident or residents have access to the area of the facility in which the condition or occurrence exists and the extent of such access. A facility's use of barriers, warning notices, instructions to staff and other means of restricting resident access to hazardous areas will be considered.
- C) Whether the condition or occurrence was the result of inherently hazardous activities or negligence by the facility.
- D) Whether the resident or residents of the facility were notified of the condition or occurrence and the promptness

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## Section 350.274(c)(2)(D) (continued)

of such notice. Failure of the facility to notify residents of potentially harmful conditions or occurrences will be considered. The adequacy of the method of such notification and the extent to which such notification reduced the potential danger to the residents will also be considered.

3) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility. In assessing the directness and imminence of the danger, the following factors will be considered:

- A) Whether actual harm, including death, physical injury or illness, mental injury or illness, distress, or pain, to a resident or residents resulted from the condition or occurrence and the extent of such harm.
- B) Whether available statistics and records from similar facilities indicate that direct and imminent danger to the resident or residents has resulted from similar conditions or occurrences and the frequency of such danger.
- C) Whether professional opinions and findings indicate that direct and imminent danger to the resident or residents will result from the condition or occurrence.
- D) Whether the condition or occurrence was limited to a specific area of the facility or was widespread throughout the facility. Efforts taken by the facility to limit or reduce the scope of the area affected by the condition or occurrence will be considered.
- E) Whether the physical, mental, or emotional state of the resident or residents, who are subject to the danger, would facilitate or hinder harm actually resulting from the condition or occurrence.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.276 Notice of Violation

- a) EACH NOTICE OF VIOLATION SHALL BE IN WRITING AND SHALL CONTAIN THE FOLLOWING INFORMATION:

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## Section 350.276(a) (continued)

- 1) A description of THE NATURE OF THE VIOLATION.
- 2) A citation of the specific STATUTORY PROVISION OR RULE which the Department believes has been violated. (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4153-301)
- 3) A statement of the level of the violation as determined pursuant to Section 350.274.
- 4) One of the following requirements for corrective action:
  - A) For level A violations, a statement that necessary corrective action to ABATE OR ELIMINATE the violation must be taken IMMEDIATELY or within a specific FIXED PERIOD OF TIME NOT EXCEEDING 15 DAYS. In setting this period, the Department will consider whether harm to residents of the facility is imminent, whether necessary precautions can be taken to protect residents before the corrective action is completed, and whether delay would pose additional risks to the residents.
  - B) For level B violations ~~and level C violations~~, a REQUEST that the facility submit A PLAN OF CORRECTION WITHIN ~~10-15~~ DAYS OF THE RECEIPT OF THE NOTICE OF VIOLATION pursuant to Section 3-303 of the Act (Ill. Rev. Stat. ~~1985-1987~~, ch. 111 1/2, par. 4153-303) and Section 350.278 of this Part.

- 5) A statement that the Department may take additional action under the Act, including assessment of penalties or licensure action.
- 6) A description of the licensee's right to appeal the notice and its right to a hearing.

- b) Each notice of violation shall be sent to the facility and the licensee ~~by registered mail~~ or served personally at the facility WITHIN TEN DAYS after the Director or his designee determines that issuance of a notice of violation is warranted under Section 350.272 (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-301).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 350.277 Administrative Warning

- a) Each administrative warning shall be in writing and shall include the following information:
  - 1) A description of the nature of the violation.
  - 2) A citation of the specific statutory provision or rule which the Department believes has been violated.
  - 3) A statement that the FACILITY SHALL BE RESPONSIBLE FOR CORRECTING THE SITUATION, CONDITION, OR PRACTICE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(a))
- b) Each administrative warning shall be sent to the facility and the licensee or served personally at the facility within ten days after the Director or his designee determines that issuance of an administrative warning is warranted under Section 350.272.
- c) The facility is not required to submit a plan of correction in response to an administrative warning.
- d) If the Department finds, during THE NEXT ON-SITE INSPECTION WHICH OCCURS MORE THAN 90 DAYS AFTER THE ISSUANCE OF THE ADMINISTRATIVE WARNING, that the facility has not CORRECTED THE SITUATION, CONDITION, OR PRACTICE WHICH RESULTED IN THE ISSUANCE OF THE ADMINISTRATIVE WARNING, the Department shall notify the facility of the finding. The facility must then SUBMIT A WRITTEN PLAN OF CORRECTION as provided in Section 350.278. The Department will consider the plan of correction and take any necessary action in accordance with Section 350.278. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(b))

(Source: Added at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.278 Plans of Correction

- a) A FACILITY SHALL HAVE TEN ~~10~~ DAYS AFTER RECEIPT OF A NOTICE OF VIOLATION FOR A LEVEL B ~~OR LEVEL C~~ VIOLATION, or after receipt of a notice under Section 350.277(d) of failure to correct a situation, condition, or practice which resulted in the issuance of an administrative warning, TO PREPARE AND SUBMIT A PLAN OF CORRECTION to the Department.

- b) Within the ~~ten~~ ~~10~~-day period, a facility may request additional time for submission of the plan of correction. The Department will



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## Section 350.278(b) (continued)

extend the period for submission of the plan of correction for an additional 30 days, when it finds that corrective action by a facility to abate or eliminate the violation will require SUBSTANTIAL CAPITAL IMPROVEMENT. The Department will consider the extent and complexity of necessary physical plant repairs and improvements and any impact on the health, safety, or welfare of the residents of the facility in determining whether to grant a requested extension.

c) Each plan of correction shall be based on an assessment by the facility of the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each plan of correction shall include:

- 1) A description of the specific corrective action the facility is taking, or plans to take, to abate, eliminate, or correct the violation cited in the notice.
- 2) A description of the steps which will be taken to avoid future occurrences of the same and similar violations.
- 3) A specific date by which the corrective action will be completed.
- d) Submission of a plan of correction shall not be considered an admission by the facility that the violation has occurred.
- e) The Department shall review each plan of correction to insure that it provides for the abatement, elimination, or correction of the violation. The Department shall reject a submitted plan only if it finds any of the following deficiencies:
  - 1) The plan does not appear to address the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences.
  - 2) The plan is not specific enough to indicate the actual actions the facility will be taking to abate, eliminate, or correct the violation.
  - 3) The plan does not provide for measures which will abate or eliminate, or correct the violation.
  - 4) The plan does not provide steps which will avoid future

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## Section 350.278(e)(4) (continued)

occurrences of the same and similar violations.

5) The plan does not provide for timely completion of the corrective action, considering the seriousness of the violator any possible harm to the residents, and the extent and complexity of the corrective action.

f) When the Department rejects a submitted plan of correction, it shall notify the facility. The notice of rejection shall be in writing and shall specify THE REASON FOR THE REJECTION. THE FACILITY SHALL HAVE TEN ~~10~~ DAYS AFTER RECEIPT OF THE NOTICE OF REJECTION TO SUBMIT A MODIFIED PLAN.

g) If a facility fails to submit a plan or modified plan meeting the criteria in subsection (c) within the prescribed time periods in subsection (a) or subsection (d), AN APPROVED PLAN OF CORRECTION WILL BE IMPOSED BY THE DEPARTMENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 11 1/2, par. 4153-303(b))

h) The Department shall verify the completion of the corrective action required by the plan of correction within the specified time period during subsequent investigations, surveys and evaluations of the facility.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.280 Reports of Correction

a) In lieu of submission of a plan of correction, a facility may submit a report of correction if the corrective action has been completed. The report of correction must be submitted within the time periods required in Section 350.278 for submission of a plan of correction.

b) Each report of correction shall be based on an assessment by the facility of the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each report of correction shall include

- 1) A description of the specific corrective action the facility has taken to abate, eliminate, or correct the violation cited in the notice.

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## Section 350.280(b) (continued)

- 2) A description of the steps which have been taken to avoid future occurrences of the same and similar violations.
  - 3) The specific date on which the corrective action was completed.
  - 4) A signed statement by the administrator of the facility that the report of correction is true and accurate, which shall be considered an oath for the purposes of any legal proceedings.
  - c) Submission of a report of correction shall not be considered an admission by the facility that the violation has occurred.
  - d) The Department shall review and approve or disapprove the report of correction based on the criteria outlined in Section 350.278(d) for review of plans of correction. If a report of correction is disapproved, the facility shall be subject to a plan of correction imposed by the Department as provided in Section 350.278.
  - e) The Department shall verify the completion of the corrective action outlined in the report of correction during subsequent investigations, surveys and evaluations of the facility.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.282 Conditions for Assessment of Penalties

The Department shall consider the assessment of a monetary penalty against a facility under the following conditions:

- a) When a notice of violation for a level A violation is issued.
  - 1) The penalty to be assessed for this violation shall be the greater of the following:
    - A) An amount NOT LESS THAN \$5000 as determined by the Director or his designee considering the factors outlined in Section 350.286(a), or
    - B) The total of the following:
      - 1) \$5 PER RESIDENT IN THE FACILITY, PLUS
      - ii) \$.20 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE DAY ON WHICH THE NOTICE OF VIOLATION

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## Section 350.282(a)(1)(B)(ii) (continued)

IS RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(1))

- 2) The facility shall also be issued a conditional license for a period of six months as provided in Section 350.260.
- b) When a facility fails to abate or eliminate a level A violation immediately or within the period set by the Department in the notice of violation pursuant to Section 350.276(a)(4)(A).
  - 1) The facility shall be cited for a repeat violation.
  - 2) The penalty to be assessed shall be three times the penalty computed under subsection (a)(1) of this Section.
  - 3) The license of the facility shall be revoked as provided in Section 350.180.
- c) When a notice of violation for a level B violation is issued.
  - 1) The penalty to be assessed for this violation shall be the greater of the following:
    - A) An amount NOT LESS THAN \$500 as determined by the Director or his designee considering the factors outlined in Section 350.286(a), or
    - B) The total of the following:
      - 1) \$3 PER RESIDENT IN THE FACILITY, PLUS
      - ii) \$.15 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE DAY ON WHICH THE NOTICE OF VIOLATION IS RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(2))
  - 2) Upon acceptance of a plan of correction by the Department, assessment of the penalty shall be suspended by the Department. No additional penalty shall be imposed for days during which the plan of correction is in effect.
- d) When a facility fails to correct a level B violation within the time period specified in the plan of correction approved by the Department.



## Section 350.282(d) (continued)

- 1) The facility shall be cited for a repeat violation.
- 2) The penalty to be assessed shall be computed in accordance with subsection (c)(1) of this Section. Days during which the plan of correction was in effect shall be included in the calculation of the penalty.
- 3) The facility shall also be issued a conditional license for a period of at least six months as provided in Section 350.260.
- ~~e) When a facility fails to implement the corrective action required in the plans of correction for ten or more level C violations within the time period required in the plans of correction approved by the Department and fails to substantially address the issues raised by the violations routinely throughout the facility.~~
- ~~1) The facility shall be cited for repeat violations.~~
- ~~2) The penalty to be assessed shall be calculated as the total of the following:~~
  - ~~A) \$1.50 PER RESIDENT IN THE FACILITY, PLUS~~
  - ~~B) \$.10 PER RESIDENT FOR EACH DAY OF THE REPEAT VIOLATIONS, COMMENCING ON THE DAY ON WHICH THE NOTICES OF THE REPEAT VIOLATIONS ARE RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 4153-305(3))~~

e) ~~f)~~ WHEN A NOTICE OF VIOLATION IS ISSUED FOR A VIOLATION OF ARTICLE II OF THE ACT (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-101 through par. 4152-212) WITH REGARD TO THE RIGHTS OF A PARTICULAR RESIDENT OF THE FACILITY, THE DEPARTMENT SHALL ORDER THE FACILITY TO REIMBURSE THE RESIDENTS FOR ANY INJURIES INCURRED OR IF THE AMOUNT OF THE INJURIES IS LESS THAN \$100, THE DEPARTMENT SHALL ORDER THE FACILITY TO PAY \$100 TO THE RESIDENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(~~6~~ 7))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.284 Calculation of Penalties

- a) For the purpose of calculating penalties as provided in Section. 350.282, EACH DAY ON WHICH A VIOLATION CONTINUES TO EXIST AFTER THE

## Section 350.284(a) (continued)

DAY ON WHICH NOTICE OF THE VIOLATION IS RECEIVED BY THE FACILITY SHALL BE CONSIDERED A SEPARATE VIOLATION. The Department shall not be required to send additional notices of violation to the facility for such continuing violations. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-302)

- b) For purposes of calculating penalties as provided in Section 350.282, THE NUMBER OF RESIDENTS IN THE FACILITY AND THE NUMBER OF RESIDENTS ON EACH DAY SHALL BE CALCULATED AS THE AVERAGE NUMBER OF RESIDENTS IN THE FACILITY DURING THE ~~THIRTY~~ 30 DAYS IMMEDIATELY PRECEDING THE DAY ON WHICH THE FINDINGS WERE MADE IN THE FACILITY AND THE CONDITIONS OR OCCURRENCES DETERMINED TO BE A VIOLATION WERE DISCOVERED. The number of residents in the facility on the day on which the findings were made in the facility will be considered to be the same as the average number of residents in the facility during the preceding ~~thirty~~ 30 days, unless evidence is provided by the facility substantiating that the average number of residents for that period was different. Changes in the number of residents in the facility subsequent to the day on which the findings were made shall not be considered in the calculation. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(~~5~~ 6))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.286 Determination to Assess Penalties

- a) The Director or his designee shall consider the following factors in determining whether or not to assess penalties for violations under the conditions outlined in Section 350.282.
  - 1) THE SEVERITY OF HARM, INCLUDING DEATH OR SERIOUS PHYSICAL OR MENTAL HARM, WHICH HAS RESULTED TO A RESIDENT AND THE EXTENT TO WHICH RESIDENTS HAVE BEEN SUBJECT TO POTENTIAL SERIOUS HARM. A penalty will be assessed when the Director or his designee finds that death or serious physical or mental harm to a resident has occurred or that the facility has knowingly subjected residents to potential serious harm.
  - 2) THE GRAVITY OF THE VIOLATION AND THE EXTENT TO WHICH THE PROVISIONS OF THE ACT OR RULES WERE VIOLATED. The Director or his designee will assess a monetary penalty if he finds that the violation recurred or continued, is widespread throughout the facility or evidences flagrant violation or the Act or these rules.

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## Section 350.286(a) (continued)

## Section 350.286 (continued)

- 3) THE EXTENT AND SERIOUSNESS OF ANY PREVIOUS VIOLATIONS COMMITTED BY THE FACILITY AND THE EXTENT OF DILIGENCE EXERCISED BY THE FACILITY TO CORRECT SUCH VIOLATIONS. The Director or his designee will assess a penalty when he finds that the facility has been cited for similar violations and has failed to correct such violations as promptly as practicable or has failed to exercise diligence in taking necessary corrective action. The Director or his designee will also consider any evidence that the violations constitute a pattern of deliberate action by the facility. The extent of any change in the ownership and management of the facility will be considered in relation to the seriousness of previous violations.
- 4) ANY POSSIBLE FINANCIAL BENEFIT THE FACILITY COULD GAIN AS A RESULT OF COMMITTING OR CONTINUING THE VIOLATION. Such benefits include, but are not limited to, diversion of costs associated with physical plant repairs, staff salaries, consultant fees, or direct patient care services. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-306)
- b) If the Director or his designee determines that a penalty is to be assessed, a written notice of penalty assessment shall be sent to the facility ~~by registered mail~~. Each notice of penalty assessment shall include:
- 1) THE AMOUNT OF THE PENALTY being assessed as provided in Section 350.282.
  - 2) The amount of any reduction or whether the penalty has been waived pursuant to Section 350.288.
  - 3) A description of THE VIOLATION, including a reference to the notices of violation and plans of correction which are the basis of the assessment.
  - 4) A citation to the provision of THE ACT OR THE RULE which the facility has violated.
  - 5) A description of the right of the facility to appeal the assessment and of the RIGHT OF THE FACILITY TO A HEARING.
  - 6) For violations which are continuing at the time the notice of assessment, THE AMOUNT OF ADDITIONAL PENALTIES PER DAY which will be assessed. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-307)

- c) Penalties shall be paid by the facility to the Department within the time periods provided in Section 3-310 of the Act. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-310)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.288 Reduction or Waiver of Penalties

- a) Reductions for all types of violations subject to penalties.
- 1) The Director or his designee shall consider the factors contained in Section 350.286(a) in determining whether to reduce the amount of the penalty to be assessed from the amount calculated pursuant to Section 350.284 and in determining the amount of such reduction.
  - 2) When the Director or his designee finds that correction of a violation required capital improvements or repairs in the physical plant of the facility and the facility has a history of compliance with physical plant requirements, the penalty will be reduced by the amount of the cost of the improvements or repairs. This reduction, however, shall not reduce the penalty for a level A violation to an amount less than \$1000.
- b) Reductions and waivers for level B violations.
- 1) Penalties resulting from level B violations may be reduced or waived only under one of the following conditions:
    - A) THE FACILITY SUBMITS A REPORT OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, and the report is subsequently verified by the Department.
    - B) THE FACILITY SUBMITS A PLAN OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, the plan is approved by the Department, THE FACILITY SUBMITS A REPORT OF CORRECTION WITHIN FIFTEEN DAYS after submission of the plan or correction, and the report is subsequently verified by the Department.
    - C) THE FACILITY SUBMITS A PLAN OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, THE PLAN PROVIDES FOR CORRECTION WITHIN NOT MORE THAN THIRTY DAYS after submission of the plan of correction, and THE PLAN IS



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## Section 350.288(b)(1)(C) (continued)

## APPROVED BY THE DEPARTMENT.

- D) Correction of the violation requires substantial capital improvements or repairs in the physical plant of the facility. THE FACILITY SUBMITS A PLAN OR CORRECTION INVOLVING SUBSTANTIAL CAPITAL COSTS, THE PLAN OF CORRECTION PROVIDES COMPLETION OF THE CORRECTIVE ACTION WITHIN NINETY DAYS after submission of the plan, and the plan is approved by the Department. (Ill. Rev. Stat. ~~1985~~ 1987), ch. 111 1/2, par. 4153-308)

- 2) Under these conditions, the Director or his designee shall consider the factors outlined in Section 350.286(a) in determining whether to reduce or waive the penalty and in setting the amount of any reduction.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.290 Quarterly List of Violators

- a) THE DEPARTMENT SHALL PREPARE ON A QUARTERLY BASIS A LIST CONTAINING THE NAMES AND ADDRESSES OF ALL FACILITIES AGAINST WHICH THE DEPARTMENT DURING THE PREVIOUS QUARTER HAS:

- 1) Issued a NOTICE OF PENALTY ASSESSMENT for a level A violation as provided in Section 350.286 and Section 3-305(1) of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-305(1)). ~~sent a notice under Section 3-307 regarding a penalty assessment under subsections (1), (3), (4) or (5) of Section 3-305;~~
- 2) Issued a NOTICE OF REVOCATION of the facility's license as provided in Section 350.180 and ~~sent a notice of license revocation under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119). ~~---~~
- 3) Issued a NOTICE REFUSING RENEWAL of the facility's license as provided in Section 350.175 and ~~sent a notice refusing renewal of a license under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119). ~~---~~
- 4) Issued a NOTICE TO SUSPEND the facility's license as provided in ~~sent a notice to suspend a license under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119). ~~---~~

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## Section 350.290(a) (continued)

- 5) ISSUED A CONDITIONAL LICENSE to the facility based on violations which were NOT CORRECTED as provided in Section 350.260 and Section 3-313 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119). ~~Issued a conditional license for violations and penalties described under Sections 3-301 and 3-303;~~
- 6) PLACED A MONITOR IN THE FACILITY as provided in Section 350.270 and Section 3-501 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-501) for one of the following reasons: ~~placed a monitor under subsections (a), (b) and (c) of Section 3-501 and under subsection (d) of such Section where license revocation or nonrenewal notices have also been issued;~~
  - A) The facility is operating without a license.
  - B) The Department has revoked or refused to renew the license of the facility.
  - C) The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure.
  - D) The Department determines that an emergency exists and HAS ISSUED A NOTICE OF REVOCATION OR NONRENEWAL against the facility's license.
- 7) INITIATED AN ACTION TO APPOINT A RECEIVER. ~~---~~
- 8) RECOMMENDED TO THE DIRECTOR OF THE DEPARTMENT OF PUBLIC AID, OR THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE DECERTIFICATION FOR VIOLATIONS IN RELATION TO PATIENT CARE OF A FACILITY PURSUANT TO TITLES XVIII AND XIX (42 U.S.C. Sections 1395 et seq. and 1396 et seq.) OF THE FEDERAL SOCIAL SECURITY ACT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-304(a))

- b) IN ADDITION TO THE NAME AND ADDRESS OF THE FACILITY, THE LIST SHALL INCLUDE THE NAME AND ADDRESS OF THE PERSON OR LICENSEE AGAINST WHOM THE ACTION HAS BEEN INITIATED, A SELF-EXPLANATORY SUMMARY OF THE FACTS WHICH WARRANTED THE INITIATION OF EACH ACTION, THE TYPE OF ACTION INITIATED, THE DATE OF THE INITIATION OF THE ACTION, THE AMOUNT OF THE PENALTY SOUGHT TO BE ASSESSED, IF ANY, AND THE FINAL

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## Section 350.290(b) (continued)

DISPOSITION OF THE ACTION, IF COMPLETED. (Ill. Rev. Stat. ~~1995-Supp.~~ 1987, ch. 111 1/2, par. 4153-304(b))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.300 Alcoholism Treatment Programs In Long-Term Care Facilities

- a) A long-term care facility that desires to provide an alcoholism treatment program must first receive written approval from ~~both the Department Division of Health Facilities Surveillance and the Division of Health Facilities Standards~~. Such approval will be granted only if it can be shown that such program will not interfere in any way with the residents in the other parts of the facility. ~~(C)~~

- b) Any alcoholism treatment program in a long-term care facility must meet the program standards of the rules for Alcoholism and Substance Abuse Treatment, Intervention and Research Programs (77 Ill. Adm. Code ~~200-2058~~) ~~Alcoholism and Intoxication Treatment Programs~~, as promulgated by the Illinois Department of Alcoholism and Substance Abuse ~~Public Health~~ under the Illinois Alcoholism and Other Drug Dependency Act ~~Alcoholism Treatment Licensing Act~~. (Ill. Rev. Stat. ~~1979-1987~~, ch. 111 1/2, par. ~~2301-1-101~~ et seq.) ~~(C)~~

- c) The alcoholism treatment program must be in a completely separate distinct part of the long-term care facility, and must include all beds in that distinct part. It must be completely separated from the rest of the facility, and have separate entrances. ~~(C)~~

- d) Beds designated for alcoholism treatment cannot be used for long-term care residents, nor can beds designated for long-term care residents be used for residents undergoing treatment for alcoholism. ~~(C)~~

- e) The alcoholism treatment program staff will not be utilized in performing services in the long-term care area of the facility, nor will long-term care program staff be utilized to provide any services in the alcoholism treatment designated area. ~~(C)~~

- f) There may be joint use of laundry, food service, housekeeping and administrative services, provided written approval is obtained from the Department ~~Division of Long-Term Care~~. Such approval will be granted only if it can be shown that such joint usage will not interfere in any way with the residents in other parts of the

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## Section 350.300(f) (continued)

facility. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.310 Department may Survey Facilities Formerly Licensed

THE DEPARTMENT MAY SURVEY ANY FORMER FACILITY WHICH ONCE HELD A LICENSE TO INSURE THAT THE FACILITY IS NOT AGAIN OPERATING WITHOUT A LICENSE.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.320 Waivers

- a) UPON APPLICATION BY A FACILITY, THE DIRECTOR MAY GRANT OR RENEW THE WAIVER OF THE FACILITY'S COMPLIANCE WITH A RULE OR STANDARD FOR A PERIOD NOT BE EXCEED THE DURATION OF THE CURRENT LICENSE OR, IN THE CASE OF AN APPLICATION FOR LICENSE RENEWAL, THE DURATION OF THE RENEWAL PERIOD.

- b) THE WAIVER MAY BE CONDITIONED UPON THE FACILITY TAKING ACTION PRESCRIBED BY THE DIRECTOR AS A MEASURE EQUIVALENT TO COMPLIANCE.

- c) IN DETERMINING WHETHER TO GRANT OR RENEW A WAIVER, THE DIRECTOR SHALL CONSIDER:

- 1) THE DURATION AND BASIS FOR ANY CURRENT WAIVER WITH RESPECT TO THE SAME RULE OR STANDARD;
- 2) THE CONTINUED VALIDITY OF EXTENDING THE WAIVER ON THE SAME BASIS;
- 3) THE EFFECT UPON THE HEALTH AND SAFETY OF RESIDENTS;
- 4) THE QUALITY OF RESIDENT CARE (~~if~~ whether the waiver would reduce the overall quality of the resident care below that required by the Act or Rules in this Part);
- 5) THE FACILITY'S HISTORY OF COMPLIANCE WITH THE RULES AND STANDARDS OF THIS ACT (~~if~~ the existence of a consistent pattern of violation of the Act or rules of this Part); and
- 6) THE FACILITY'S ATTEMPTS TO COMPLY WITH THE PARTICULAR RULE OR STANDARD IN QUESTION. (Ill. Rev. Stat. ~~1995-Supp.~~ 1987, ch. 111 1/2, par. 4153-303.1)



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## Section 350.320 (continued)

d) THE DEPARTMENT SHALL RENEW WAIVERS RELATING TO PHYSICAL PLANT STANDARDS ISSUED PURSUANT TO THIS SECTION AT THE TIME OF THE INDICATED REVIEWS, UNLESS IT CAN SHOW WHY SUCH WAIVERS SHOULD NOT BE EXTENDED FOR THE FOLLOWING REASONS:

- 1) THE CONDITION OF THE PHYSICAL PLANT HAS DETERIORATED OR ITS USE SUBSTANTIALLY CHANGED SO THAT THE BASIS UPON WHICH THE WAIVER WAS ISSUED IS MATERIALLY DIFFERENT; OR
- 2) THE FACILITY IS RENOVATED OR SUBSTANTIALLY REMODELED IN SUCH A WAY AS TO PERMIT COMPLIANCE WITH THE APPLICABLE RULES AND STANDARDS WITHOUT SUBSTANTIAL INCREASE IN COST. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-303.1)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.330 Definitions

~~a) Each definition is considered to be a separate rule, but they are not given individual numbers because they are listed alphabetically, and numbers would have to be changed each time a new definition was added or deleted.~~

~~b)~~

The terms defined in this Section ~~below~~ are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

ABUSE - ANY PHYSICAL OR MENTAL INJURY OF SEXUAL ASSAULT INFLICTED ON A RESIDENT OTHER THAN BY ACCIDENTAL MEANS IN A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-103)

ACCESS - THE RIGHT TO:

- ENTER ANY FACILITY;
- COMMUNICATE PRIVATELY AND WITHOUT RESTRICTION WITH ANY RESIDENT WHO CONSENTS TO THE COMMUNICATION;
- SEEK CONSENT TO COMMUNICATE PRIVATELY AND WITHOUT RESTRICTION WITH ANY RESIDENT;
- INSPECT THE CLINICAL AND OTHER RECORDS OF A RESIDENT WITH THE EXPRESS WRITTEN CONSENT OF THE RESIDENT;

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OBSERVE ALL AREAS OF THE FACILITY EXCEPT THE LIVING AREA OF ANY RESIDENT WHO PROTESTS THE OBSERVATION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-104)

Act - as used in this Part ~~these standards~~, the "Nursing Home Care ~~Reform~~ Act" (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.) ~~of 1979, as amended.~~

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 350.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a level A or level B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

AFFILIATE MEANS:

WITH RESPECT TO A PARTNERSHIP, EACH PARTNER THEREOF.

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WITH RESPECT TO A CORPORATION, EACH OFFICER, DIRECTOR AND STOCKHOLDER THEREOF.

WITH RESPECT TO A NATURAL PERSON: ANY PERSON RELATED IN THE FIRST DEGREE OF KINSHIP TO THAT PERSON; EACH PARTNERSHIP AND EACH PARTNER THEREOF OF WHICH THAT PERSON OR ANY AFFILIATE OF THAT PERSON IS A PARTNER; AND EACH CORPORATION IN WHICH THAT PERSON OR ANY AFFILIATE OF THAT PERSON IS AN OFFICER, DIRECTOR OR STOCKHOLDER. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-106)

Aide or Orderly - any person providing direct personal care, training ~~and/or~~ or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area of cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

APPLICANT - ANY PERSON MAKING APPLICATION FOR A LICENSE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-107)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial ~~etc.~~ aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.

Autism - A syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; Mental illness observed in young children

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characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in these regulations means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a charge nurse is a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

Community Living Facility - see Facility, Community Living.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's ~~life~~ life.



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Contract - a binding agreement between a resident or the resident's ~~his~~ guardian (or, if the resident is a minor, the resident's ~~his~~ parent) and the facility or its agent.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse. Examples of physical abuse are restraining a resident, striking, slapping, hitting, or withholding food as punishment. Examples of mental abuse are swearing, threatening and seclusion.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Dental Practice Act (Ill. Rev. Stat. ~~1983-1987~~, ch. 111, par. ~~2202-2301~~ et seq.).

Department - as used in this Part - these standards-- means the Illinois Department of Public Health.

Developmentally Disabled - those individuals whose disability is attributable to mental retardation, cerebral palsy, epilepsy, autism, or other pathological conditions which generally originate before such individuals attain age ~~eighteen~~ ~~(18)~~, and which continue, or can be expected to continue, indefinitely, and which constitute a substantial functioning handicap to such individuals.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal ~~and/or~~ or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered by the Department of ~~Registration and Education~~ Professional Regulation to render medical care. Other titles often used to refer to DD aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability - a severe, chronic disability of a person which:

Is attributable to a mental or physical impairment or

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combination of mental and physical impairment or combination of mental and physical impairments;

is manifest before age ~~twenty-two~~ ~~(22)~~;

is likely to continue indefinitely;

results in substantial functional limitations in three ~~(3)~~ or more of the following areas of major life activities:

self-care;

receptive and expressive language;

learning;

mobility;

self-direction;

capacity for independent living; and

economic self-sufficiency; and

reflects the persons' needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and individually planned and coordinated.

Dietetic Service Supervisor - a person who:

is a qualified dietitian; or is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate of a Department-approved course that provides ~~twenty~~ ~~(90)~~ or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has training and experience in food service supervision and management in a military service equivalent in content to the program in paragraph (2) or (3) of this definition.

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Dietitian - a person who:

is eligible for registration by the American Dietetic Association; or

has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one ~~4~~ year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Direct Supervision - means that work is performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

DIRECTOR - THE DIRECTOR OF PUBLIC HEALTH OR HIS DESIGNEE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-110)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

DISCHARGE - THE FULL RELEASE OF ANY RESIDENT FROM A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-111)

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility.

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Equivalent of a Graduate Licensed Practical Nurse - a licensed

## Section 350.330 (continued)

practical nurse, licensed by waiver who successfully passes the proficiency examination approved by the U.S. Department of Health and Human Services shall be considered the equivalent of a licensed practical nurse who is a graduate of an approved school of practical nursing for the purposes of these standards.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Community Living - a place of residence as limited in these standards for between five ~~45~~ and ~~eighty~~ ~~60~~ ambulatory adults who are mildly or moderately mentally retarded with a potential for being absorbed into the mainstream of community life.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in these standards is a facility of three ~~40~~ or more persons, or distinct part thereof, serving residents of which more than ~~fifty~~ ~~50~~ percent are developmentally disabled. Facilities with any number less than ~~fifty~~ ~~50~~ percent of developmentally disabled residents, who are determined by the Department with consultation from the Division of Developmental Disabilities, Illinois Department of Mental Health and Developmental Disabilities, to need organized social support and training programs, must comply with the program requirements in these minimum Standards.

FACILITY OR LONG-TERM CARE FACILITY - A PRIVATE HOME, INSTITUTION, BUILDING, RESIDENCE, OR ANY OTHER PLACE, WHETHER OPERATED FOR PROFIT OR NOT, OR A COUNTY HOME FOR THE INFIRM AND CHRONICALLY ILL OPERATED PURSUANT TO "THE COUNTY HOME ACT" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 34, par. ~~53~~ 5361 et seq.), AS NOW OR HEREAFTER AMENDED, OR BY A COUNTY PURSUANT TO "AN ACT IN RELATION TO HOMES FOR THE AGED", APPROVED JULY 21, 1959 (Ill. Rev. Stat. ~~1983~~ 1987, ch. 34, par.



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3561 et seq.) AS NOW OR HEREAFTER AMENDED, OR ANY SIMILAR INSTITUTION OPERATED BY A POLITICAL SUBDIVISION OF THE STATE OF ILLINOIS, WHICH PROVIDES, THROUGH ITS OWNERSHIP OR MANAGEMENT, PERSONAL CARE, SHELTERED CARE OR NURSING FOR THREE ~~(3)~~ OR MORE PERSONS, NOT RELATED TO THE APPLICANT OR OWNER BY BLOOD OR MARRIAGE. IT INCLUDES SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES AS THOSE TERMS ARE DEFINED IN TITLE XVIII AND Title XIX OF THE FEDERAL SOCIAL SECURITY ACT (42 U.S.C.A. 1395 et seq. and 1936 et seq.). A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "FACILITY" DOES NOT INCLUDE THE FOLLOWING:

A HOME, INSTITUTION, OR OTHER PLACE OPERATED BY THE FEDERAL GOVERNMENT OR AGENCY THEREOF, OR BY THE STATE OF ILLINOIS;

A HOSPITAL, SANITARIUM, OR OTHER INSTITUTION WHOSE PRINCIPAL ACTIVITY OR BUSINESS IS THE DIAGNOSIS, CARE, AND TREATMENT OF HUMAN ILLNESS THROUGH THE MAINTENANCE AND OPERATION OF ORGANIZED FACILITIES THEREFORE, WHICH IS REQUIRED TO BE LICENSED UNDER THE "HOSPITAL LICENSING ACT" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 142 et seq.) AS NOW OR HEREAFTER AMENDED; OR

ANY "FACILITY FOR CHILD CARE" AS DEFINED IN THE "CHILD CARE ACT OF 1969" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 23, par. 2211 et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-1113)

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two ~~(2)~~ month period of time.

Full-time - means on duty a minimum of ~~thirty-six (36)~~ hours, four ~~(4)~~ days per week.

Goal - an expected result or condition that involves a relatively

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long period of time to achieve, that is specified in behavioral term in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

GUARDIAN - A PERSON APPOINTED AS A GUARDIAN OF THE PERSON OR GUARDIA OF THE ESTATE, OR BOTH, OF A RESIDENT UNDER THE "PROBATE ACT OF 1975" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 110 1/2, par. 1-1 et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-1114)

Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, or Licensed Practical Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not for profit corporation incorporated under, or qualified as a foreign corporation under, the "General Not for Profit Corporation Act" approved July 17, 1943, as heretofore or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 32, par. ~~1638~~ 101.01 et seq.); or, by a county pursuant to "An Act in relation to homes for the aged," approved July 21, 1959, as heretofore or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 34, par. 3561 et seq.); or, pursuant to a trust or endowment established for nonprofit, charitable purposes, and which provides maintenance, personal care, nursing or sheltered care to three ~~(3)~~ or more residents, ~~ninety~~ 90 percent of whom are ~~sixty (60)~~ or more years of age.

Hospitalization - the care and treatment of a person in a hospital; an in-patient.

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House Manager - a qualified person on duty ~~forty (40)~~ hours a week managing the Community Living Facility and responsible for its operation and its inhabitants.

Individual Educational Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in these regulations means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1967 Edition).

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for The Developmentally Disabled (ICF/DD's) at least one member of the team shall be a Qualified Mental Retardation Professional.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the "Nursing Home Administrators Licensing Act" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, Pars. ~~3601~~ 3651 et seq.), as now or hereafter amended.

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

LICENSEE - THE PERSON OR ENTITY LICENSED TO OPERATE THE FACILITY AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-115)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's ~~life~~ life.

MAINTENANCE - FOOD, SHELTER, AND LAUNDRY SERVICES. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-116)

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Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of devices such as walkers, crutches, wheelchairs, or wheeled platforms ~~and so forth~~.

Mobile Resident - any resident who is able to move about either independently or with the aid of assistive devices such as walkers, crutches, wheelchairs, or wheeled platforms ~~and so forth~~.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

NEGLECT - A FAILURE IN A FACILITY TO PROVIDE ADEQUATE MEDICAL OR PERSONAL CARE OR MAINTENANCE, WHICH FAILURE RESULTS IN PHYSICAL OR MENTAL INJURY TO A RESIDENT OR IN THE DETERIORATION OF A RESIDENT'S PHYSICAL OR MENTAL CONDITION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-117)

New Long-Term Care Facility - any facility initially licensed as a



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health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

NURSE - A REGISTERED NURSE OR A LICENSED PRACTICAL NURSE AS DEFINED IN "THE ILLINOIS NURSING ACT OF 1987" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~340~~ 350) et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-118)

Nursing Assistant - Any person who provides nursing care ~~and/or~~ or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of ~~Registration and Education~~ Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable distinct part of a facility consisting of all the beds within the distinct part, but having no more than ~~seventy-five (75)~~ beds, none of which are more than ~~one hundred twenty (120)~~ feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered with the Department of ~~Registration and Education~~ Professional Regulation as an occupational therapist under the Illinois

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Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. 3701 et seq.).

Occupational Therapy Assistant - a person who is registered with the Department of ~~Registration and Education~~ Professional Regulation as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. 3701 et seq.).

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Oversight - general watchfulness and appropriate action to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

OWNER - THE INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER PERSON WHO OWNS A FACILITY. IN THE EVENT A FACILITY IS OPERATED BY A PERSON WHO LEASES THE PHYSICAL PLANT, WHICH IS OWNED BY ANOTHER PERSON, "OWNER" MEANS THE PERSON WHO OPERATES THE FACILITY. EXCEPT THAT IF THE PERSON WHO OWNS THE PHYSICAL PLANT IS AN AFFILIATE OF THE PERSON WHO OPERATES THE FACILITY AND HAS SIGNIFICANT CONTROL OVER THE DAY-TO-DAY OPERATIONS OF THE FACILITY, THE PERSON WHO OWNS THE PHYSICAL PLANT SHALL INCUR JOINTLY AND SEVERALLY WITH THE OWNER ALL LIABILITIES IMPOSED ON AN OWNER UNDER THE ACT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-119)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

~~Person in Need of Mental Treatment - any person who is mentally ill and who, because of his illness, is reasonably expected to inflict serious physical harm upon himself or another in the near future or is unable to provide for his basic physical needs so as to guard himself from serious harm.~~

PERSONAL CARE - ASSISTANCE WITH MEALS, DRESSING, MOVEMENT, BATHING, OR OTHER PERSONAL NEEDS, OR GENERAL SUPERVISION AND OVERSIGHT OF THE PHYSICAL AND MENTAL WELL-BEING OF AN INDIVIDUAL, EXCLUSIVE OF NURSING, WHO BECAUSE OF AGE, PHYSICAL OR MENTAL DISABILITY, EMOTIONAL

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OR BEHAVIOR DISORDER, OR MENTAL RETARDATION IS INCAPABLE OF MAINTAINING A PRIVATE, INDEPENDENT RESIDENCE, OR WHO IS INCAPABLE OF MANAGING HIS PERSON WHETHER OR NOT A GUARDIAN HAS BEEN APPOINTED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-120)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~4002~~ 4122 et seq.).

Physical Therapy Assistant - a person who has graduated from a two ~~(2)~~ year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered with the Department of ~~Registration and Education~~ Professional Regulation as a physical therapist under the Illinois Physical Therapy License Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 par. ~~4201~~ 4251 et seq.).

Physician - any person licensed by the State of Illinois to practice medicine in all its branches as provided in the "Medical Practice Act of 1987" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~4401~~ 4400-1 et seq.).

Probationary License - an initial license issued for a period of ~~one hundred twenty (120)~~ days during which time the Department will determine the qualifications of the applicant.

Program Coordinator - a qualified person directly responsible for the overall program, operation and management of a Community Living Facility.

Psychiatrist - a physician who has had at least three ~~(3)~~ years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is registered with the Illinois Department of ~~Registration and Education~~ Professional Regulation to practice clinical psychology.

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following

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additional qualifications ~~is~~:

Be a physician licensed by the Department of Professional Regulation to practice medicine or osteopathy.

Be a registered nurse licensed by the Department of Professional Regulation.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

~~an educator with a degree in education from an accredited program and with specialized training or one (1) year of experience in working with the mentally retarded.~~

~~a physical or occupational therapist who has specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a physician licensed by the State of Illinois to practice medicine or osteopathy and with specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a psychologist with at least a Master's Degree from an accredited program and with specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a registered nurse with a valid current Illinois registration to practice as a registered professional nurse who has specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a speech pathologist or audiologist who has specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a registered social worker with a Bachelor's Degree in social work from an accredited program, or a Bachelor's Degree in a field other than social work and at least three (3) years social work experience under the supervision of a qualified~~



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~~social worker, and with specialized training or with one (1) year of experience in working with the mentally retarded.~~

~~a therapeutic recreation specialist who is a graduate of an accredited program and eligible for certification by the National Council for Therapeutic Recreation Certification, and who has specialized training or one (1) year experience working with the mentally retarded.~~

~~a rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification and who has specialized training or one (1) year of experience in treating the mentally retarded.~~

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified ~~etc.~~ by the State of Illinois, if required.

REASONABLE VISITING HOURS - ANY TIME BETWEEN THE HOURS OF 10 A.M. AND 8 P.M. DAILY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-121)

Registered Nurse - a person with a valid Illinois registration to practice as a registered professional nurse.

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two ~~(2)~~ or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

RESIDENT - PERSON RESIDING IN AND RECEIVING PERSONAL CARE FROM A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-122)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly

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## Section 350.330 (continued)

responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

RESIDENT'S REPRESENTATIVE - A PERSON OTHER THAN THE OWNER, OR AN AGENT OR EMPLOYEE OF A FACILITY NOT RELATED TO THE RESIDENT, DESIGNATED IN WRITING BY A RESIDENT TO BE HIS REPRESENTATIVE, OR THE RESIDENT'S GUARDIAN, OR THE PARENT OF A MINOR RESIDENT FOR WHOM NO GUARDIAN HAS BEEN APPOINTED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-123)

Restorative Care - a health care process designed to assist resident: to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Restraint of a Resident - the application of a device to limit movements.

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Safety Device - any equipment or protective device used on a bed, chair, or resident which prevents him from falling or otherwise injuring himself. Examples are: bedside rails, geriatric ~~and/or~~ or adaptive chairs, a wide band ~~minimum width six (6) inches~~, vest or sheet applied to prevent falling out of a bed or chair, and hand socks applied to prevent injuring one's self.

Sanitation - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident in a room which the resident ~~he~~ cannot open.

Self Preservation - the ability to follow directions ~~and/or~~ and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

SHELTERED CARE - MAINTENANCE AND PERSONAL CARE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-124)

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## Section 350.330 (continued)

Social Worker, Qualified - a person who:

is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act (Ill. Rev. Stat. 1987, ch. 111, par. 6351 et seq.) ~~by the State of Illinois (registered or certified by the Illinois Department of Registration and Education); and~~

is a graduate of a school of social work which has been approved by the Council on Social Work Education (some schools are approved for Bachelor's Degree programs and others for Master's Degree programs); and

has one ~~(1)~~ year of social work experience in a health care setting.

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

STOCKHOLDER OF A CORPORATION - ANY PERSON WHO, DIRECTLY OR INDIRECTLY, BENEFICIALLY OWNS, HOLDS OR HAS THE POWER TO VOTE, AT LEAST ~~5%~~ FIVE PERCENT OF ANY CLASS OF SECURITIES ISSUED BY THE CORPORATION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-125)

Story - when used in these regulations means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

STUDENT INTERN - MEANS ANY PERSON WHOSE TOTAL TERM OF EMPLOYMENT IN ANY FACILITY DURING ANY 12-MONTH PERIOD IS EQUAL TO OR LESS THAN 90 CONTINUOUS DAYS, AND WHOSE TERM OF EMPLOYMENT IS EITHER:

AN ACADEMIC CREDIT REQUIREMENT IN A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION, OR

IMMEDIATELY SUCCEEDS A FULL QUARTER, SEMESTER OR TRIMESTER OF ACADEMIC ENROLLMENT IN EITHER A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION, PROVIDED THAT SUCH PERSON IS REGISTERED FOR ANOTHER FULL QUARTER, SEMESTER OR TRIMESTER OF ACADEMIC ENROLLMENT IN EITHER A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION WHICH

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## Section 350.330 (continued)

QUARTER, SEMESTER OR TRIMESTER WILL COMMENCE IMMEDIATELY FOLLOWING THE TERM OF EMPLOYMENT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-125.1)

Substantial - meeting requirements except for variance from the strict and literal performance which result in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 350.280(q)(8), 350.280(k)(2) and 350.280(k)(4).

Substantial failure - the failure to meet requirements other than a variance from the strict and literal performance which result in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 350.180(b)(1) and 350.260(f).

Sufficient - Same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in regulations, the supervisor must be on the premises if the person does not meet assistant level (two ~~(2)~~ year training program) qualifications specified in these definitions.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

TITLE XVIII - TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-126)

TITLE XIX - TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-127)

TRANSFER - A CHANGE IN STATUS OF A RESIDENT'S LIVING ARRANGEMENTS



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## Section 350.330 (continued)

FROM ONE FACILITY TO ANOTHER FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-128)

TYPE A VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY PRESENTING A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS MENTAL OR PHYSICAL HARM TO A RESIDENT WILL RESULT THEREFROM. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-129)

TYPE B VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY DIRECTLY THREATENING TO THE HEALTH, SAFETY OR WELFARE OF A RESIDENT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-130)

~~TYPE C VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY WHICH INDIRECTLY THREATENS THE HEALTH, SAFETY OR WELFARE OF A RESIDENT.~~

Unit - an entire physically identifiable residence area, in Community Living Facilities consisting of not less than five ~~(5)~~ nor more than ~~twenty (20)~~ beds, and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective regulations governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

~~Utensil Sanitizer - an apparatus for sanitizing unwrapped bulky type utensils by using boiling water and steam heat not under pressure.~~

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.340 Incorporated and Referenced Materials

- a) The following regulations, standards, and statutes are incorporated

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## Section 350.340(a) (continued)

or referenced in this Part:

- 1) Private and professional association standards:

- A) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1980), which may be obtained from the American Dietetic Association, 430 North Michigan Avenue, Chicago, Illinois 60611.
- B) American National Standards Institute, Standard A17.1-84: Safety Code for Elevators and Escalators (1985), which may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 325 East 47th Street, New York, New York 10017.
- C) American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), Handbook of Fundamentals (1977), which may be obtained from the National Association of American Society of Heating, Refrigerating, and Air Conditioning, United Engineering Center, 345 East 47th Street, New York, New York 10017.
- D) The following standards of the American Society for Testing and Materials (ASTM):
- 1) Standard No. E-84-1977A: Method of Test for Surface Burning Characteristics of Building Materials.
  - 11) Standard No. E90-1975: Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions.
- E) International Conference Building Officials, Uniform Building Code (1976 and 1982).
- F) National Fire Protection Association (NFPA), Standard No. 101: Life Safety Code, Appendix B (1981), and the following standards, which may be obtained from National Fire Protection Association, Battery Park, Quincy, Massachusetts 02269:
- 1) No. 10 (1978): Standards for Portable Extinguishers
  - 11) No. 13 (1980): Standards for the Installation of

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Sprinkler Systems

- iii) No. 56F (1977): Standards for Non-Flammable Medical Gas Systems
- iv) No. 70 (1981): National Electric Code
- v) No. 90A (1978): Standards for the Installation of Air Conditioning and Ventilating Systems
- vi) No. 96 (1980): Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment
- vii) No. 220 (1979): Standards Types of Building Construction
- viii) No. 253 (1978): Flooring Radiant Heat Energy Test
- ix) No. 255 (1972): Test of Surface Burning Characteristics of Building Materials
- G) Compressed Gas Association, Pamphlet P-2.1: Standard for Medical-Surgical Vacuum Systems in Hospitals (1976).
- H) Underwriters' Laboratory, Inc., Fire resistance Index, Building Material Directory, and Standard No. 181 (1974): Factory Made Air Duct Materials and Air Duct Connectors.
- I) American Medical Record Association, Requirements for Medical Record Practitioners (1985), which may be obtained from the American Medical Record Association, John Hancock Center, Suite 1850, 875 North Michigan, Chicago, Illinois 60611.
- J) Commission on Rehabilitation Counselor Certification, Requirements for Rehabilitation Counselor Certification (1986), which may be obtained from the Commission on Rehabilitation Counselor Certification, 1156 Shore Drive, Room 350, Arlington Heights, Illinois 60004.
- K) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126,

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Section 350.340(a)(1)(K) (continued)

Alexandria, Virginia 22302.

2) Federal statutes and regulations:

- A) Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)
- B) Social Security Act (42 U.S.C.A. 301 et seq.)
- C) U.S. Public Health Service, Guidelines for the Prevention and Control of Nosocomial Infections, which includes the following guidelines and may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333.
  - i) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (February 1981).
  - ii) Guideline for Hospital Environmental Control (February 1981, Revised July 1982).
  - iii) Guideline for Prevention of Intravascular Infections (October 1981).
  - iv) Guideline for Prevention of Surgical Wound Infections (March 1982).
  - v) Guideline for Prevention of Nosocomial Pneumonia (July 1982).
  - vi) Guideline for Isolation Precautions in Hospitals (July 1983).
  - vii) Guideline for Infection Control in Hospital Personnel (July 1983).
- ~~C) U.S. Public Health Service, Food Service Sanitation Manual (1985).~~
- ~~D) U.S. Public Health Service, Isolation Techniques for Use in Hospitals (1985).~~
- 3) State of Illinois Statutes:
  - A) Alcoholism Treatment Licensing Act (Ill. Rev. Stat. 1985—



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## Section 350.340(a)(3)(A) (continued)

- 1987, ch. 111 1/2, par. 2301 et seq.)
- B) Boiler and Pressure Vessel Safety Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 3201 et seq.)
- C) Child Care Act of 1969 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 23, par. 2211 et seq.)
- D) AN ACT to create the Court of Claims, to prescribe its powers and duties, and to repeal an Act herein named (Ill. Rev. Stat. ~~1985~~ 1987, ch. 37, par. 439.1 et seq.)
- E) The Illinois Dental Practice Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. 2301 et seq.)
- F) The Election Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 46, par. 1-1 et seq.)
- G) Freedom of Information Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 116, par. 201 et seq.)
- H) General Not for Profit Corporation Act of 1986 (Ill. Rev. Stat. ~~1985~~, ch. 32, par. ~~163a~~ 101.01 et seq.)
- I) Illinois Health Facilities Planning Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 1151 et seq.)
- J) Hospital Licensing Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 142 et seq.)
- K) Illinois Municipal Code (Ill. Rev. Stat. ~~1985~~ 1987, Article I, Division 3, ch. 24, pars. 1-3-1 through 1-3-6)
- L) Illinois Controlled Substances Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 56 1/2, par. 1100 et seq)
- M) Life Care Facilities Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4160-1 et seq)
- N) Local Governmental and Governmental Employees Tort Immunity Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 85, par. 1-101 et seq.)
- O) Medical Practice Act of 1987 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~4401~~ 4400-1 et seq.)

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## Section 350.340(a)(3) (continued)

- P) Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 91 1/2, par. 1-100 et seq.)
- Q) The Illinois Nursing Act of 1987 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~3401~~ 3501 et seq.)
- R) Nursing Home Administrators Licensing and Disciplinary Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~3601~~ 3651 et seq.)
- S) Nursing Home Care ~~Reform~~ Act ~~of 1979~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4151-101 et seq.)
- T) Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. 3701 et seq.)
- U) Pharmacy Practice Act of 1987 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~4001~~ 4121 et seq.)
- V) Illinois Physical Therapy Act of 1985 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. 4251 et seq.)
- W) Private Sewage Disposal Licensing Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 116.301 et seq.)
- X) Probate Act of 1975 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 110 1/2, par. 1-1 et seq.)
- Y) The Illinois Public Aid Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 23, par. 1-1 et seq.)
- Z) Safety Glazing Materials Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 3101 et seq.)
- 4) State of Illinois rules:
- A) Office of the State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)
- B) Office of the State Fire Marshal, Boiler and Pressure Vessel Safety ~~Rules and Regulations~~ (41 Ill. Adm. Code 120)
- C) Capital Development Board, Illinois Accessibility Code ~~Standards illustrated~~ (71 Ill. Adm. Code 400)
- D) Department of Public Health, Alcoholism and Intoxication

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## Section 350.340(a)(4)(D) (continued)

## Treatment Programs (77 Ill. Adm. Code 200)

- E) Department of Public Health, Control of Communicable Diseases (77 Ill. Adm. Code 690)
- F) Department of Public Health, Food Service Sanitation (77 Ill. Adm. Code 750)
- G) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890)
- H) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905)
- I) Department of Public Health, Drinking Water Systems (77 Ill. Adm. Code 900)
- J) Department of Public Health, Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
- K) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)
- L) Department of Public Aid, Access to Cost Reports (89 Ill. Adm. Code 140.544)
- M) Department of ~~Registration and Education~~ Professional Regulation, Controlled Substance Act (77 Ill. Adm. Code 1650)
- N) Department of Transportation, Regulation of Construction within Flood Plains (92 Ill. Adm. Code 706)

b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

c) All citations to federal regulations in this Part concern the specified regulation in the 1986 Code of Federal Regulations, unless another date is specified.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## SUBPART B: ADMINISTRATION

## Section 350.510 Administrator

- a) There shall be an administrator licensed under the "Illinois Nursing Home Administrators Licensing Act" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~3601~~ 3651 et seq.) full-time for each licensed facility. The licensee will report any change in administrator to the Department, within five ~~(5)~~ days. ~~(6)~~
- b) The administrator shall delegate in writing adequate authority to a person at least ~~eigheten~~ ~~(18)~~ years of age who is capable of acting in an emergency during his absence. Such administrative assignment shall not interfere with resident care and supervision. The administrator or the person designated by ~~him/her~~ the administrator to be in charge of the facility in ~~his/her~~ their absence, shall be deemed by the Department to be the agent of the licensee for the purposes of Section 3-212 of the Nursing Home Care Reform Act, which requires Department staff to provide the licensee with a copy of their report before leaving the facility. (B-~~6~~)
- c) The administrator shall arrange for facility supervisory personnel to annually attend appropriate educational programs on supervision, nutrition, and other pertinent subjects. ~~(6)~~
- d) The administrator shall appoint in writing a member of the facility staff to coordinate the establishment of, and render assistance to, the residents' advisory council. ~~(6)~~
- e) The licensee and the administrator shall be familiar with this Part. They shall be responsible for seeing that the applicable regulations are met in the facility and that employees are familiar with those regulations according to the level of their responsibilities. (A, B-~~6~~)
- f) If the facility has an assistant administrator, the Department shall be informed of the name and dates of employment and termination of this person. ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: POLICIES

## Section 350.610 Management Policies

- a) The facility's governing body shall exercise general direction of the



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## Section 350.610(a) (continued)

facility, and shall establish the broad policies and procedures for the facility related to its purpose, objectives, operation, and the welfare of the residents served. ~~(C)~~

- b) There shall be established a table of organization showing the major operating programs of the facility, with staff divisions, the administrative personnel in charge of programs and divisions, and their lines of authority, responsibilities and communication. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.620 Resident Care Policies

- a) The facility shall have written policies and procedures governing all services provided by the facility which shall be formulated with the involvement of the administrator. The policies shall be available to the staff, residents and the public. These written policies shall be followed in operating the facility and shall be reviewed at least annually. ~~(B)(C)~~

- b) These policies shall include:

- 1) A written statement of the philosophy, objectives and goals the facility is striving to achieve, ~~(C)~~
- 2) A written statement linking the facility's role to the "State Plan for the Developmentally Disabled," as prepared by and available from the Governor's Planning Council for Developmental Disabilities, ~~(C)~~
- 3) A written statement of the facility's goals for its residents, ~~(C)~~
- 4) A written statement of the facility's concept of its relationship to the parents of its residents or to the surrogates, ~~(C)~~
- 5) A written statement concerning admission, transfer, and discharge of residents including categories of residents accepted and not accepted, residents that will be transferred or discharged, etc., ~~(C)~~
- 6) A written statement for resident care services including physician services, emergency services, personal care and

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## Section 350.620(b)(6) (continued)

nursing services, restorative services, activity services, pharmaceutical services, dietary services, social services, resident records, dental services, and diagnostic service (including laboratory and x-ray), ~~(B)(C)~~

- 7) All the information contained in the policies shall be available to consumer representatives, the public, staff, residents, and for review by Department personnel. ~~(C)~~

- c) The facility shall have a written agreement with one or more hospitals which indicates the hospital or hospitals will provide the following services: ~~(C)~~

- 1) Emergency admissions. ~~(C)~~
  - 2) Admission to a hospital of residents from the facility who are in need of hospital care. ~~(C)~~
  - 3) Needed diagnostic services. ~~(C)~~
  - 4) Any other hospital based services needed by the resident. ~~(C)~~
- ~~d) There shall be no post-mortem performed in the facility. (C)~~
- ~~e) There shall be no blood transfusions performed in the facility. (B)(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.630 Admission and Discharge Policies

- a) Residents shall only be admitted who have had a comprehensive evaluation covering physical, emotional, social and cognitive factors, conducted by an appropriately constituted, interdisciplinary team. ~~(B)(C)~~
- b) No resident determined by professional evaluation to be in need of skilled level of nursing care shall be admitted to, or kept in, an Intermediate Care Facility, ~~and/or~~ or Intermediate Care Facility for the Developmentally Disabled, or any distinct part of the facility designated and classified for intermediate care for the developmentally disabled. ~~(B)(C)~~
- c) Each facility shall have a policy concerning the admission of persons

## Section 350.630(c) (continued)

needing prenatal ~~and/or~~ or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to, or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house ~~and/or~~ or outside resources. ~~(G)~~

- d) No resident shall be admitted to, or kept in, the facility who is dangerous to himself, or others. (B-~~G~~)
- e) A facility for infants and children under ~~eighteen~~ ~~(18)~~ years of age shall be used exclusively for children. ~~(G)~~ Persons under ~~eighteen~~ ~~(18)~~ years of age may not be cared for in a facility for adults without prior approval from the Department. Such approval will be granted only when it is the best possible placement for the person under the particular set of circumstances. ~~(G)~~
- f) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if incompetent, by the resident's guardian. ~~(G)~~
- g) If a resident insists on and is discharged against the advice of a physician or a Qualified Mental Retardation Professional, the facts involved in the situation shall be fully documented in ~~his or her~~ the resident's clinical record. ~~(G)~~
- h) No resident shall be discharged without the concurrence of the attending physician. All involuntary discharges and transfers shall be in accordance with Sections 3-401 - 3-423 of the Act. ~~(G)~~
- i) No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Sections 350.1220(j) through (k). (A, B-~~G~~)
- j) A facility shall not admit more residents than the number authorized by the license issued to it. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.640 Contract Between Resident and Facility

- a) 1) BEFORE A PERSON IS ADMITTED TO A FACILITY, OR AT THE EXPIRATION

## Section 350.640(a)(1) (continued)

OF THE PERIOD OF PREVIOUS CONTRACT, OR WHEN THE SOURCE OF PAYMENT FOR THE RESIDENT'S CARE CHANGES FROM PRIVATE TO PUBLIC FUNDS OR FROM PUBLIC TO PRIVATE FUNDS, A WRITTEN CONTRACT SHALL BE EXECUTED BETWEEN A LICENSEE AND THE FOLLOWING IN ORDER OF PRIORITY:

- A) THE PERSON, OR IF THE PERSON IS A MINOR, HIS PARENT OR GUARDIAN; OR
  - B) THE PERSON'S GUARDIAN, IF ANY, OR AGENT, IF ANY, AS DEFINED IN SECTION 11a-23 OF THE "PROBATE ACT OF 1975", AS NOW OR HEREFTER AMENDED; OR
  - C) A MEMBER OF THE PERSON'S IMMEDIATE FAMILY.
- 2) AN ADULT PERSON SHALL BE PRESUMED TO HAVE THE CAPACITY TO CONTRACT FOR ADMISSION TO A LONG-TERM CARE FACILITY UNLESS HE HAS BEEN ADJUDICATED A "DISABLED PERSON" WITHIN THE MEANING OF SECTION 11a-2 OF THE "PROBATE ACT OF 1975", AS NOW OR HEREFTER AMENDED, OR UNLESS A PETITION FOR SUCH AN ADJUDICATION IS PENDING IN A CIRCUIT COURT OF ILLINOIS.
- 3) IF THERE IS NO GUARDIAN, AGENT OR MEMBER OF THE PERSON'S IMMEDIATE FAMILY AVAILABLE, ABLE OR WILLING TO EXECUTE THE CONTRACT REQUIRED BY SECTION 2-202 OF THE ACT AND A PHYSICIAN DETERMINES THAT A PERSON IS SO DISABLED AS TO BE UNABLE TO CONSENT TO PLACEMENT IN A FACILITY, OR IF A PERSON HAS ALREADY BEEN FOUND TO BE A "DISABLED PERSON", BUT NO ORDER HAS BEEN ENTERED ALLOWING RESIDENTIAL PLACEMENT OF THE PERSON, THAT PERSON MAY BE ADMITTED TO A FACILITY BEFORE THE EXECUTION OF A CONTRACT REQUIRED BY THAT SECTION; PROVIDED THAT A PETITION FOR GUARDIANSHIP OR FOR MODIFICATION OF GUARDIANSHIP IS FILED WITHIN 15 DAYS OF THE PERSON'S ADMISSION TO A FACILITY, AND PROVIDE FURTHER THAT SUCH A CONTRACT IS EXECUTED WITHIN ~~10~~ TEN DAYS OF THE DISPOSITION OF THE PETITION.
- 4) NO ADULT SHALL BE ADMITTED TO A FACILITY IF HE OBJECTS, ORALLY OR IN WRITING, TO SUCH ADMISSION, EXCEPT AS OTHERWISE PROVIDED IN CHAPTERS III AND IV OF THE "MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE", AS AMENDED, OR SECTION 11a-14.1 OF THE "PROBATE ACT OF 1975", AS AMENDED.
- 5) If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of the person,



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## Section 350.640(a)(5) (continued)

within ten ~~(10)~~ days of the effective date of these rules, unless a petition has been filed for guardianship or modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or a member of the person's immediate family available, able, or willing to execute the contract at that time, then a contract shall be executed within ten ~~(10)~~ days of the disposition of such petition.

- b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)." ~~(G)~~
- c) A RESIDENT SHALL NOT BE DISCHARGED OR TRANSFERRED AT THE EXPIRATION OF THE TERM OF A CONTRACT, EXCEPT AS PROVIDED IN SECTIONS 3-401 THROUGH 3-423 OF THE ACT. ~~(G)~~
- d) AT THE TIME OF THE RESIDENT'S ADMISSION TO THE FACILITY, A COPY OF THE CONTRACT SHALL BE GIVEN TO THE RESIDENT, HIS GUARDIAN, IF ANY, AND ANY OTHER PERSON WHO EXECUTED THE CONTRACT. ~~(G)~~
- e) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee. ~~(G)~~
- f) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section ~~above~~. If any person other than the principal signatory is to be held individually responsible for payments due under the contract that person shall also sign the contract on a separate signature line labelled "signature of responsible party" or "signature of guarantor." ~~(G)~~
- g) The contract shall include a definition of "responsible party" or "guarantor" which describes in full the liability incurred by any such person. ~~(G)~~
- h) A COPY OF THE CONTRACT FOR A RESIDENT WHO IS SUPPORTED BY NONPUBLIC FUNDS OTHER THAN THE RESIDENT'S OWN FUNDS SHALL BE MADE AVAILABLE TO THE PERSON PROVIDING THE FUNDS FOR THE RESIDENT'S SUPPORT. ~~(G)~~
- i) THE ORIGINAL OR A COPY OF THE CONTRACT SHALL BE MAINTAINED IN THE FACILITY AND BE MADE AVAILABLE UPON REQUEST TO REPRESENTATIVES OF THE DEPARTMENT AND THE DEPARTMENT OF PUBLIC AID. ~~(G)~~
- j) THE CONTRACT SHALL BE WRITTEN IN CLEAR AND UNAMBIGUOUS LANGUAGE AND

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## Section 350.640(j) (continued)

- SHALL BE PRINTED IN NOT LESS THAN 12 POINT TYPE. ~~(G)~~
- k) THE CONTRACT SHALL SPECIFY THE TERM OF THE CONTRACT. ~~(G)~~
- l) THE CONTRACT SHALL SPECIFY THE SERVICES TO BE PROVIDED UNDER THE CONTRACT AND THE CHARGES FOR THE SERVICES. A PARAGRAPH SHALL ITEMIZE THE SERVICES AND PRODUCTS TO BE PROVIDED BY THE FACILITY AND EXPRESS THE COST OF THE ITEMIZED SERVICES AND PRODUCTS TO BE PROVIDED EITHER IN TERMS OF A DAILY, WEEKLY, MONTHLY OR YEARLY RATE, OR IN TERMS OF A SINGLE FEE. ~~(G)~~
- m) THE CONTRACT SHALL SPECIFY THE SERVICES THAT MAY BE PROVIDED TO SUPPLEMENT THE CONTRACT AND THE CHARGES FOR THE SERVICES.
  - 1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established ~~above~~ in subsection (l) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed then such additional cost shall be specified in the contract. ~~(G)~~
  - 2) If the cost of any itemized service or product to be provided by the facility or related institutions to the resident cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract. ~~(G)~~
- n) THE CONTRACT SHALL SPECIFY THE SOURCES LIABLE FOR PAYMENTS UNDER THE CONTRACT. ~~(G)~~
- o) THE CONTRACT SHALL SPECIFY THE AMOUNT OF DEPOSIT PAID. Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions the deposit

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## Section 350.640(o) (continued)

shall be returned to the resident. If the deposit is nonrefundable the contract shall provide express notice of such nonrefundability. ~~(G)~~

p) THE CONTRACT SHALL SPECIFY THE RIGHTS, DUTIES AND OBLIGATIONS OF THE RESIDENT, EXCEPT THAT THE SPECIFICATION OF A RESIDENT'S RIGHTS MAY BE FURNISHED ON A SEPARATE DOCUMENT WHICH COMPLIES WITH THE REQUIREMENTS OF SECTION 2-211 OF THE ACT. ~~(G)~~

q) THE CONTRACT SHALL DESIGNATE THE NAME OF THE RESIDENT'S REPRESENTATIVE. IF ANY. THE RESIDENT SHALL PROVIDE THE FACILITY WITH A COPY OF THE WRITTEN AGREEMENT BETWEEN THE RESIDENT AND THE RESIDENT'S REPRESENTATIVE WHICH AUTHORIZES THE RESIDENT'S REPRESENTATIVE TO INSPECT AND COPY THE RESIDENT'S RECORDS AND AUTHORIZES THE RESIDENT'S REPRESENTATIVE TO EXECUTE THE CONTRACT ON BEHALF OF THE RESIDENT REQUIRED BY SECTION 2-202 OF THE ACT. ~~(G)~~

r) THE CONTRACT SHALL PROVIDE THAT IF THE RESIDENT IS COMPELLED BY A CHANGE IN PHYSICAL OR MENTAL HEALTH TO LEAVE THE FACILITY, THE CONTRACT AND ALL OBLIGATIONS UNDER IT SHALL TERMINATE ON SEVEN ~~(7)~~ DAYS NOTICE. IT SHALL ALSO PROVIDE THAT IN ALL OTHER SITUATIONS, A RESIDENT MAY TERMINATE THE CONTRACT AND ALL OBLIGATIONS UNDER IT WITH ~~THIRTY (30)~~ DAYS NOTICE. ALL CHARGES SHALL BE PRORATED AS OF THE DATE ON WHICH THE CONTRACT TERMINATES. AND, IF ANY PAYMENTS HAVE BEEN MADE IN ADVANCE, THE EXCESS SHALL BE REFUNDED TO THE RESIDENT. THIS PROVISION SHALL NOT APPLY TO LIFE-CARE CONTRACTS THROUGH WHICH A FACILITY AGREES TO PROVIDE MAINTENANCE AND CARE FOR A RESIDENT THROUGHOUT THE REMAINDER OF HIS LIFE NOR TO CONTINUING-CARE CONTRACTS THROUGH WHICH A FACILITY AGREES TO SUPPLEMENT ALL AVAILABLE FORMS OF FINANCIAL SUPPORT IN PROVIDING MAINTENANCE AND CARE FOR A RESIDENT THROUGHOUT THE REMAINDER OF HIS LIFE. ~~(G)~~

s) After July 1, 1982, all facilities which offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the "Life Care Facilities Act," (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4160-1 et seq.) as now or hereafter amended, including the obtaining of a permit from the Department, before they may enter into such contracts. ~~(G)~~

t) IN ADDITION TO ALL OTHER CONTRACT SPECIFICATIONS CONTAINED IN THIS SECTION, ADMISSION CONTRACTS SIGNED OR RENEWED AFTER JULY 1, 1985 SHALL ALSO SPECIFY: ~~(G)~~

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## Section 350.640(t) (continued)

- 1) WHETHER THE FACILITY ACCEPTS MEDICAID CLIENTS;
- 2) WHETHER THE FACILITY REQUIRES A DEPOSIT OF THE RESIDENT OR HIS FAMILY PRIOR TO THE ESTABLISHMENT OF MEDICAID ELIGIBILITY;
- 3) IN THE EVENT THAT A DEPOSIT IS REQUIRED, A CLEAR AND CONCISE STATEMENT OF THE PROCEDURE TO BE FOLLOWED FOR THE RETURN OF SUCH DEPOSIT TO THE RESIDENT OR THE APPROPRIATE FAMILY MEMBER OR GUARDIAN OF THE PERSON;
- 4) THAT ALL DEPOSITS MADE TO A FACILITY BY A RESIDENT, OR ON BEHALF OF A RESIDENT, SHALL BE RETURNED BY THE FACILITY WITHIN 30 DAYS OF THE ESTABLISHMENT OF MEDICAID ELIGIBILITY, UNLESS SUCH DEPOSITS MUST BE DRAWN UPON OR ENCUMBERED IN ACCORDANCE WITH MEDICAID ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE ILLINOIS DEPARTMENT OF PUBLIC AID. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4152-202(j))

u) IT SHALL BE A BUSINESS OFFENSE FOR A FACILITY TO KNOWINGLY AND INTENTIONALLY BOTH RETAIN A RESIDENT'S DEPOSIT AND ACCEPT MEDICAID PAYMENTS ON BEHALF OF THE RESIDENT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4152-202(k))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.650 Residents' Advisory Council

a) EACH FACILITY SHALL ESTABLISH A RESIDENT'S ADVISORY COUNCIL CONSISTING OF AT LEAST FIVE ~~(5)~~ RESIDENT MEMBERS. If there are not five residents capable of functioning on the residents' advisory Council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. THE ADMINISTRATOR SHALL DESIGNATE ANOTHER ~~A~~ MEMBER OF THE FACILITY STAFF (OTHER THAN ~~HIMSELF/HERSELF~~ THE ADMINISTRATOR) TO COORDINATE THE ESTABLISHMENT OF, AND RENDER ASSISTANCE TO, THE COUNCIL. ~~(G)~~

b) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following: (1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives, ~~etc.~~ on the resident advisory council; (2) the establishment of a separate



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## Section 350.650(b) (continued)

community advisory group with persons of the residents' choosing; (3) finding a church or civic group to "adopt" the facility; or, (4) the establishment of a family council made up of families and friends of residents who live in the community. ~~(c)~~

- c) The resident members shall be elected to the council by vote of their fellow residents and the non-resident members shall be elected to the council by vote of the resident members of the council. ~~(c)~~
- d) In facilities of ~~fifty~~ 50 beds or less, the residents' advisory council may consist of all of the residents of the facility, if the residents choose to operate this way.
- e) All resident advisory councils shall elect at least a Chairperson/President and a Vice Chairperson/Vice President from among the members of the council. These persons shall preside at the meetings of the council, assisted by the facility staff person designated by the administrator to provide such assistance. ~~(c)~~
- f) Some facilities may wish to establish mini-resident advisory councils for various smaller units within the facility. If this is done, each such unit shall be represented on an overall facility residents' advisory council with the composition described in 42.05.01.00.

- g) All residents' advisory council meetings shall be open to participation by all residents ~~and/or~~ and their representatives. ~~(c)~~

- h) NO EMPLOYEE OR AFFILIATE OF ANY FACILITY SHALL BE A MEMBER OF ANY COUNCIL. SUCH PERSONS MAY ATTEND TO DISCUSS INTERESTS OR FUNCTIONS OF THE NON-MEMBERS WHEN INVITED BY A MAJORITY OF THE OFFICERS OF THE RESIDENTS' ADVISORY COUNCIL. ~~(c)~~

- i) THE COUNCIL SHALL MEET AT LEAST ONCE EACH MONTH WITH THE STAFF COORDINATOR WHO SHALL PROVIDE ASSISTANCE TO THE COUNCIL IN PREPARING AND DISSEMINATING A REPORT OF EACH MEETING TO ALL RESIDENTS, THE ADMINISTRATOR, AND THE STAFF.

- j) Records of the council meetings will be maintained in the office of the administrator. ~~(c)~~

- k) The residents' advisory council may communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing resident rights and facility responsibilities and make recommendations for changes or additions

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which will strengthen ~~and make recommendations for changes or additions which will strengthen~~ the facility's policies and procedures as they effect residents' rights and facility responsibilities.

- 1) The council shall be a forum for:
  - 1) Obtaining and disseminating information;
  - 2) SOLICITING AND ADOPTING RECOMMENDATIONS FOR FACILITY PROGRAMMING AND IMPROVEMENTS;
  - 3) EARLY IDENTIFICATION OF PROBLEMS.
  - 4) RECOMMENDING ORDERLY RESOLUTION OF PROBLEMS.
- m) THE COUNCIL MAY PRESENT COMPLAINTS ON BEHALF OF A RESIDENT TO THE DEPARTMENT, OR TO ANY OTHER PERSON IT CONSIDERS APPROPRIATE.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.660 General Policies

- a) The facility shall have policies and procedures, established in writing, that protect the financial interests of residents and when large sums of money accrue to a resident, provide for counseling the resident concerning its use, and for appropriate protection of such money. These policies and procedures shall permit normalized and normalizing possession and use of money by residents for work payment and property administration as, for example, in performing cash and check transactions, and in buying clothes and other items. ~~(c)~~

- b) The facility shall allow daily visiting between 10 A.M. and 8 P.M. ~~(c)~~

- c) Residents occupying any bedroom shall be of the same sex except in the case of a room occupied by husband and wife. ~~(c)~~

- d) There shall be no resident traffic through a resident's room by residents to reach any other area of the building. ~~(c)~~

- e) The facility shall provide for the registration and disposition of complaints without threat of discharge or other reprisal against any

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## Section 350.660(e) (continued)

employee or resident. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.670 Personnel Policies

- a) Each facility shall develop and maintain ~~there shall be~~ written personnel policies which policies are followed in the operation of the facility. ~~that shall include, but are not limited to, the following:~~ These policies shall include at a minimum each of the requirements of this Section. ~~(C)~~

b) Employee Records

- 1) Employment application forms shall be completed for each employee and kept on file in the facility. They shall be available to Department personnel for review. Individual personnel files for each employee ~~these forms~~ shall contain date of employment, date of birth ~~age or birthdate~~, home address, educational background, past experience including types of employment, where previously employed, type of position employed to fill in this facility, last day employed (if no longer in present facility) and reasons for leaving. ~~(C)~~

- 2) ~~Individual~~ In addition to the application form, the ~~individual~~ personnel files for each employee shall also contain ~~other pertinent personnel data such as~~ health records, including the initial health evaluation required under Section 350.675(a), the results of the tuberculin skin test required under Section 350.675(e), ~~and~~ evaluation of performance and any other pertinent health records. ~~(C)~~

- ~~3) A) Each employee shall have a physical examination which has been conducted within a period of ten (10) days before or after employment and annually thereafter. This shall include findings that permit certification that the employee is free of communicable, contagious or infectious diseases. Additional physical examinations may be requested at the discretion of the Department according to the Rules for the "Control of Communicable Diseases" (77 Ill. Adm. Code 690), Illinois Department of Public Health.~~

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- ~~B) This initial physical exam shall include documentation regarding past or present tuberculosis infection, determined by either a tuberculosis skin test, or a chest x-ray taken within one (1) year prior to or ten (10) days after initial employment.~~
- ~~C) Repeat skin tests and/or chest x-rays are not required unless the employee is exposed to a person with tuberculosis in its contagious stage or has signs and symptoms of disease. However, they are highly recommended, especially for persons residing or working in high risk areas of the State.~~

- ~~D) It is also recommended that employees who have been infected with tuberculosis (positive skin reaction) and have not had a full course of chemoprophylaxis or chemotherapy should complete one (1) year of daily INH condition. Depending on their risk of developing disease, as determined by their physician, employees who have been infected and have not been able to complete a full course of preventive treatment should have a chest x-ray annually. (B, C)~~

- ~~4) An employee diagnosed or suspected of having a contagious or infectious disease shall not be on duty until such time as a written statement is obtained from a physician that the disease is no longer contagious or is found to be noninfectious. (B, C)~~

~~b) General~~  
~~1)~~

- c) All personnel shall have either training or experience, or both, in the job assigned to them. ~~(B, C)~~

~~d) 2) Orientation and In-Service Training~~

- ~~1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basic resident safety; and, understanding and communicating with the type of residents being cared for in the facility, such as~~



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## Section 350.670(d)(1) (continued)

geriatric, pediatric, developmentally disabled, etc. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures for resident care services ~~concerning topics listed in Section 350.620(b)(6) before being assigned to provide direct care to residents.~~ This orientation program shall include material regarding the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.

- 2) ~~3~~ All employees ~~Each employee~~ except student interns shall attend in-service training programs ~~covering each of the subjects listed in 42-02-02-06~~ pertaining to ~~his or her~~ their assigned duties at least annually. These in-service training programs shall include material regarding the facility's policies, skill training and ongoing education carried out to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include material concerning prevention and treatment of decubitus ulcers (commonly known as bed sores). In-service training concerning dietary services shall include material concerning effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept. (B, G)

- e) ~~4~~ Employees shall only be assigned duties which are directly related to their job functions, as identified in their job descriptions.

Exceptions may be made in emergencies. ~~No employee shall be assigned duties other than those directly related to his job functions, as identified in his job description, except in emergencies. (C)~~

- f) ~~5~~ Personnel policies shall include ~~There shall be~~ a plan to provide ~~a program of~~ personnel coverage for regular staff when they are absent. (A, B)

- g) ~~6~~ Every facility shall have a current dated weekly employee time schedule posted in a convenient place where employees may refer to it. This schedule shall contain employee's name, job title, shift assignment, hours of work and days off. The schedule ~~These~~ shall be kept on file in the facility for one (1) year after the week for which the schedule was used. (C)

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h) Student Interns

- 1) No person who meets the definition of student intern shall be required to complete a current course of training for developmental disabilities aides, or successfully complete the Department's proficiency examination.
- 2) The facility may utilize interns to perform basic developmental disabilities aide practices, but shall not allow interns to provide rehabilitation nursing, in-bed bathing, assistance with skin care, foot care, enemas, or any medical procedure, except under the direct, immediate supervision of a licensed nurse or certified developmental disabilities aide.
- 3) No facility shall have more than fifteen percent of its nursing assistant staff positions held by student interns.

(Source: Amended at 12 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.675 Initial Health Evaluation for Employees

- a) Each employee shall have an initial health evaluation which shall be used to insure that employees are not placed in positions which would pose undue risk of infection to themselves, other employees, residents, or visitors.
- b) The initial health evaluation shall be conducted not more than 30 days prior to the employee beginning employment in the facility. The evaluation shall be completed not more than 30 days after the employee begins employment in the facility.
- c) The initial health evaluation shall include a health inventory. The inventory shall be obtained from the employee and shall include the employee's immunization status and any available history of conditions which would predispose the employee to acquiring or transmitting infectious diseases. This inventory shall include any history of exposure to, or treatment for, tuberculosis. The inventory shall also include any history of hepatitis, dermatologic conditions, or chronic draining infections or open wounds.
- d) The initial health evaluation shall include a physical examination. The examination shall include at a minimum any procedures needed in order to:
  - 1) Detect any unusual susceptibility to infection and any

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conditions which would increase the likelihood of the transmission of disease to residents, other employees, or visitors.

- 2) Determine that the employee appears to be physically able to perform the job function which the facility intends to assign to the employee.

e) The initial health evaluation shall include a tuberculin skin test which is conducted in accordance with the requirements of Section 350.1225. The test must meet one of the following timeframes:

- 1) The test must be completed no more than 90 days prior to the date of initial employment in the facility, or
- 2) The test must be commenced no more than ten days after the date of initial employment in the facility.

(Source: Added at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.680

## Developmental Disabilities Aides

~~Aide, Orderly, Program Aide, Program Technician and/or  
Habitatation Aide Training Program~~

- a) Each of the facility's developmental disabilities aides shall comply with one of the following conditions no later than 45 days after the date of initial employment.

- 1) Enroll in a 120-hour developmental disabilities aide training program that has been approved by the Department. The program coursework shall be successfully completed by the developmental disabilities aide no later than 120 days after the date of initial employment.

- 2) Register for the Department's developmental disabilities aide proficiency examination which must be successfully completed no later than 120 days after the date of initial employment.

- 3) Provide documentation of equivalent developmental disabilities aide training in accordance with Section 395.300 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). Such documentation shall be retained by the facility as part of the employee's personnel record.

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- b) Each person employed by the facility as a developmental disabilities aide shall meet each of the following requirements:

1) Be at least sixteen years of age, of temperate habits and good moral character, honest, reliable and trustworthy.

2) Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents.

3) Provide evidence of employment or occupation, if any, and residence for two years prior to initial employment as a nursing assistant.

4) Have completed at least eight years of grade school or provide proof of equivalent knowledge.

c) The facility shall certify on a form provided by the Department that each developmental disabilities aide employed by the facility meets the requirements of this Section. Such form shall be retained by the facility as part of the employee's personnel record.

d) During inspections of the facility, the Department may require developmental disabilities aides to demonstrate competency in the principles, techniques, and procedures covered by the developmental disabilities aide training program curriculum described in Section 395.210 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall address all of the developmental disabilities aide training principles, techniques, and procedures contained in Section 395.210 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395).

~~a) Each facility shall ensure that all persons employed as Developmental Disabilities (DD) Aides comply with one of the following conditions within 45 days of initial employment: (B-G)~~

~~1) Enroll in a 120-hour Department of Public Health approved DD-Aide Training Program. Such course shall be successfully completed within 120 days of initial employment.~~

~~2) Enroll in a DD Aide Training Program offered by a Community~~



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- ~~College, which has been approved by both the Community College Board and the Department.~~
- ~~3) Attend a recognized DD Aide Training Program registered with the Department and successfully complete the Department's proficiency examination.~~
- ~~4) Successfully complete the Department's proficiency examination.~~
- ~~5) Prove exemption from training, by prior work experience as outlined in Section 3.206 of the Act; or successfully complete the Department of Mental Health and Developmental Disabilities Mental Health Technician Training Program as delineated in Executive Order 50.~~
- ~~b) No person who meets the definition of student intern shall be required to complete a current course of training for DD Aides, or successfully complete the Department's proficiency examination. Interns may be utilized for the more basic DD Aide practices, but will not be allowed to provide rehabilitation nursing, in bed bathing, assist with skin care, foot care, enemas or any medical procedure except under the direct, immediate supervision of a licensed nurse or certified DD Aide. No facility will be allowed to have more than 15% of its DD Aide work force composed of student interns. (B,C)~~
- ~~c) Aides, Orderlies, Program Aides, Program Technicians, and Rehabilitation Aides who would otherwise have been exempt from the requirement for a training course except that their service was interrupted because of attending school or college or because of a leave of absence for medical reasons, may qualify for exemption by passing a proficiency examination administered by the Department of Mental Health and Developmental Disabilities or its representative. Applications for such exemptions should include the person's name, and address, starting date of employment, place of employment, dates of interrupted service, and reason for interrupted service (if reason is school, last school attended and dates of attendance), and should be sent to the Department of Mental Health and Developmental Disabilities, Regional Office of the region in which the facility is located.~~
- ~~d) Requests to establish equivalency shall be submitted to the Department with accompanying documentation. Equivalency shall be established by any one of the following:~~

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## Section 350.680 (continued)

- ~~1) Documentation of successful completion of a Developmental Disabilities (DD) training course approved by another state as evidenced by a diploma or certificate; (the applicant must document that the course is substantially equivalent to the provisions of Section 350.680(f) of this Part.)~~
- ~~2) Documentation of successful completion of a nursing arts course in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school.~~
- ~~3) Documentation of successful completion of a nurse aide training course approved by the Illinois Board of Education between March 1, 1979 and March 1, 1980, as evidenced by a diploma or certificate, or~~
- ~~4) Documentation of one year of employment as an aide or orderly in a facility with an interruption due to sick leave or education leave not exceeding six (6) weeks during the year ending March 1, 1980.~~
- ~~e) Criteria for a State Approved Developmental Disabilities (DD) Aide Training Program are as follows:~~
- ~~1) Application Procedures The following information must be furnished to the Department of Mental Health and Developmental Disabilities at least sixty (60) days in advance of the training program. Each facility providing its own training must apply for individual program approval. Retroactive approval will not be granted.~~
- ~~2) Program rationale; i.e., philosophy, purpose, and brief summary that identifies sponsoring agency, and the qualifications of a curriculum coordinator who may be a Qualified Mental Retardation Professional or other person qualified by at least 2 years experience with Developmental Disabilities Programs with the specific approval of the Department of Mental Health and Developmental Disabilities. Instructors qualifications shall meet at least one of the following:~~
- ~~A) Verification of successful completion of a train the trainer workshop approved by the Department of Mental Health and Developmental Disabilities.~~

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- ~~B) A Qualified Mental Retardation Professional approved as a trainer by the Department of Mental Health and Developmental Disabilities.~~
  - ~~C) At least one (1) year of experience with Developmental Disabilities Programs and approved by the Department of Mental Health and Developmental Disabilities.~~
  - ~~D) Have a valid Illinois teaching certificate, or~~
  - ~~E) Be a Community College approved instructor with at least one year of teaching experience.~~
- ~~2) For the academic (classroom) component of training, a complete outline including program and course title, behavioral objectives that the learner is expected to know or do, content outline and teaching methods is required.~~
- ~~B) For the on the job training component of training, a completed itemization of written training tasks (analogous to behavioral objectives) and specified training behaviors that comprise a task (analogous to a content outline) is required.~~
  - ~~4) Location and scheduled dates of program (including future dates). If programs are cancelled or rescheduled for any reason, the Department of Mental Health and Developmental Disabilities must be notified prior to delivery date for purposes of monitoring.~~
  - ~~5) A copy of the evaluation tool must be included. The evaluation tool must evaluate the objectives, content, on the job performance evaluation and instructors.~~
  - ~~6) Submitted materials will be reviewed by the Department of Mental Health and Developmental Disabilities. The Department of Mental Health and Developmental Disabilities will submit recommendations to the Department. The Department will make the final decision and the program sponsor will be notified of the Department's action. Approval will be based upon compliance with the provisions of this section. If the program is not approved, the reason for this decision will be given in writing to the program sponsor.~~

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Section 350.680 (continued)

- ~~7) If a program is not approved, the program sponsor may, after making the appropriate modifications, reapply for approval.~~
- ~~8) The basic content shall be presented in a minimum time frame of three (3) weeks, but not to exceed a maximum of one hundred twenty (120) days unless it is being done by a recognized educational institution on a term, semester, or trimester basis. Each trainee shall receive one hundred twenty (120) hours of in-service training. A ratio of two (2) hours on the job training to one (1) hour of classroom training including role playing, case studies, demonstrations, lectures, self study must be reflected in the one hundred twenty (120) hours minimum of training. The following requirements shall be met for on the job training (OJT):~~
  - ~~A) OJT training tasks shall be identified and written that specify what training behaviors the trainee is required to perform.~~
  - ~~B) Each task shall have the required steps necessary for successful completion of the task specified in writing.~~
  - ~~C) OJT task specified behaviors shall be taught by a qualified instructor.~~
  - ~~D) Evaluation of all OJT tasks shall be by direct observation by the instructor.~~
  - ~~E) A recording form indicating the date of successful completion of all OJT tasks shall be filled out and kept in the file at the facility.~~
  - ~~9) Term, semester and trimester courses may be submitted by an educational institution. The program must include designated hours for OJT and evidence of agency agreements.~~
  - ~~10) The approval process is not intended to place special emphasis on the sequence of subject presentation nor to be contingent upon the category of topic headings under which functional subjects are presented.~~
  - ~~11) Orientation to the specific policies of the employing agency shall be in addition to the one hundred twenty (120) hours of instruction.~~



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- ~~12) Any change in content, objectives, or instructional staff must be submitted to the Department of Mental Health and Developmental Disabilities for review. Approval of any change will be made in accordance with Section 350.680 (c) (6) of this part.~~
- ~~13) All approved training programs must be reviewed by the Department of Mental Health and Developmental Disabilities on an annual basis for continued approval. The Department of Mental Health and Developmental Disabilities shall notify the Department of continued approval or disapproval. In the review process, reference will be made to the number previously assigned to the program by the Department.~~

~~f) Course Requirements The Basic Training Program for DD Aides shall include, at a minimum:~~

- ~~1) Orientation~~

- ~~A) Functions of long term care facilities for the developmentally disabled~~
- ~~B) The health care professions, support services for the developmentally disabled and community social service agencies~~

- ~~C) Philosophy of residential care~~

- ~~D) Role of the interdisciplinary team~~
- ~~E) Job duties and responsibilities of the DD Aide~~

- ~~2) Introduction to the Residents~~

- ~~A) Communication and interpersonal relationships with residents, families and others~~
- ~~B) Psychosocial needs of residents and their family~~
- ~~C) The growth and development process~~
- ~~D) Characteristics and types of developmental disabilities~~
- ~~E) Resident's adjustment to death and dying~~

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## Section 350.680 (continued)

- ~~3) Fundamentals of Habilitation Planning~~

- ~~A) Philosophy of achieving independent living skills~~
- ~~B) Introduction to the individual habilitation plan including the role of the employee in the habilitation process~~
- ~~C) Habilitation plan assessment procedures and goal planning~~
- ~~D) The role of the employee in the admission, transfer and discharge processes~~
- ~~E) The role of the employee in basic resident care planning and procedures~~

- ~~4) Techniques of Habilitation Planning and Implementation The role of the employee in social habilitation, including:~~

- ~~A) Activities of daily living (ADL)~~
- ~~B) Therapeutic and leisure time activities~~
- ~~C) Education~~
- ~~D) Community living adjustment~~
- ~~E) Behavior development~~
- ~~F) Behavior control~~
- ~~G) Effect of drugs in behavior management~~
- ~~H) Total communication~~

- ~~I) Pre vocational and vocational training~~

- ~~J) Nutrition and fluid intake~~

- ~~K) Diets and therapeutic diets~~

- ~~5) Principles of Record Keeping~~

- ~~A) History and use of facility records with special emphasis on the role of the employee in the record keeping process~~

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- ~~B) Content and organization of resident records~~
- ~~C) Recording methods for progress notes, universal notes, ADG notes and habilitation reviews~~
- ~~D) Writing effective progress notes~~
- ~~E) Confidentiality~~
- ~~F) Recording admission, transfer and discharge information~~
- ~~6) Safety~~
  - ~~A) Basic fire safety~~
  - ~~B) Emergency and disaster procedures~~
  - ~~C) Injury prevention techniques~~
  - ~~D) Household daily safety procedures including body mechanics~~
- ~~7) Facility Environment~~
  - ~~A) Creating normalized environment for daily living activities~~
  - ~~B) Importance of cleanliness of the facility, use of equipment and supplies~~
- ~~8) Principles of Disease Control~~
  - ~~A) Introduction to micro-organisms causing resident illness and disease~~
  - ~~B) Teaching of disinfection and sanitation~~
  - ~~9) Emergency Medical Procedures~~
    - ~~A) CPR~~
    - ~~B) Seizures~~
    - ~~C) Drug reactions~~

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- ~~D) Traumas~~
- ~~E) Heimlich maneuver~~
- ~~10) Resident Rights~~
  - ~~A) Basic civil, human and legal rights of residents~~
  - ~~B) Protection of residents personal property~~
- ~~11) Bodily Functions~~
  - ~~A) Helping residents to understand their body functions~~
  - ~~B) Personal hygiene~~
  - ~~C) Human sexual behavior~~
- ~~9) Evaluation~~
  - ~~Upon successful completion of the Basic Developmental Disabilities (DD) Aide training program, the student must show competency of nursing, personal care and habilitative skills by return demonstration as well as pass a written examination encompassing theory and skills taught~~
- ~~4) Monitoring~~
  - ~~The Department shall on a random basis monitor the training program. If a monitor finds the training to be inadequate relative to the materials submitted to the Department's Review Committee, a program approval may be rescinded~~
- ~~1) Certificates~~
  - ~~1) Proof of successful completion of the approved program necessitates the sponsoring organization to award certificates to the trainees. Certificates must be sent to the Department where they will be validated. A list of names, with Social Security numbers, course completion date, and program approval number, must accompany submitted certificates. The Department will return the certificates to the sponsor(s) for distribution~~
  - ~~2) The following minimum information must be typed on the certificates before they are sent to the Department for validation:~~



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## Section 350.680 (continued)

- ~~A) Name of the trainee and Social Security number.~~
- ~~B) Title. Basic Developmental Disabilities (DD) Aide Training Program.~~
- ~~C) Identification number of the program assigned by the Department.~~
- ~~3) Successful completion of the course does not imply "certification" of the DD aide by the State. It only indicates that the person has successfully completed the Basic Developmental Disabilities (DD) Aide training program and can be employed by licensed long term care facilities as a DD Aide.~~

~~J) Application for approval of programs.~~

~~Requests for approval of programs and other related correspondence are to be submitted to:~~

~~Illinois Department of Public Health  
Office of Health Regulation  
525 West Jefferson Street  
Springfield, Illinois 62761~~

~~It will not be necessary for any course, currently approved under criteria in effect at the time these revised criteria for Basic Developmental Disabilities (DD) Aide training programs become effective, to make any changes in program content until such time as a review by the Department indicates the revisions to the program content are needed to keep the program in compliance with the rules. Any program determined to need changes will be notified, in writing, by the Department. Unless and until such written notification is received, there is no need to contact the Department concerning continued approval of a program.~~

~~K) Recognized Training Program.~~

- ~~1) Any licensed long term care facility may teach a recognized training program for DD Aides which can be individualized for each employee and can be taught by any person or persons in the facility.~~
- ~~2) Any DD Aide who attends a recognized training program must successfully pass the Department's proficiency examination.~~

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## Section 350.680 (continued)

~~before being permitted to function as a DD Aide.~~

- ~~3) Recognized training programs shall be registered with the Department by letter, and must state that, as a minimum, the course content in subsection d) will be taught in whole or in part, give the name of the instructor and give notice that the program is operational.~~

- ~~4) Recognized training programs must, as a minimum, provide all or part of the course content of an approved Department training program (see subsection d), above).~~

~~L) Proficiency Examination for DD Aide.~~

- ~~1) Any person employed as a DD Aide, may elect and request to take a proficiency examination in lieu of a course of training as required under Section 3-206 (a) (5) of the Act.~~

- ~~2) The person must meet the requirements of Section 3-206 (a) (1) (4) of the Act and be or will be employed as a DD Aide.~~

- ~~3) A completed application must be presented at the time of the examination on forms provided by the Department.~~

- ~~4) The proficiency examination will be offered monthly in each of the Department's Regions. A list of test sites, dates and times can be obtained by calling the Department at (217) 206-5133.~~

- ~~5) The examination will consist of written questions from the approved curriculum (see subsection d, above). An examinee must score 70% or more on each section in order to successfully pass the examination. Notice of pass or fail will be sent to the examinee and the employer. Only those sections previously failed must be retaken during subsequent attempts to pass the entire proficiency examination.~~

- ~~6) An examinee who fails the proficiency examination three (3) times within the first one hundred twenty (120) days of employment must enroll in and complete an approved course of instruction in order to become a DD Aide, in accordance with Section 3-206 of the Act.~~

(Source: Section repealed, new Section adopted at 12 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 350.690 Disaster Preparedness

a) Each facility shall have policies covering disaster preparedness including a written plan for staff and residents to follow in case of fire, explosion, severe weather, or other hazardous circumstances and emergencies. The plan shall be rehearsed at least twice a year for each shift. The plan shall include, but is not limited to, the following: (B-~~C~~)

- 1) All personnel employed on the premises shall be properly instructed in the use of fire extinguishers. (B-~~C~~)
- 2) A written plan of evacuation shall be posted, and made familiar to all personnel employed on the premises. ~~(C)~~
- 3) Each facility must conduct at least four ~~(4)~~ fire drills annually on each shift for a total of ~~(4-12)~~ drills. At least one ~~(4)~~ of these drills on each shift must include actual evacuation of residents to safe areas. The local fire authorities should be requested to assist periodically in these drills. ~~(C)~~

b)

1) Upon the occurrence of any emergency or disaster requiring hospital service, police, fire department or coroner, the facility administrator or their designee must provide a preliminary report to the Department utilizing either the nursing home hotline or by contacting directly the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:

- A) Name and location of facility;
  - B) type of emergency;
  - C) number of injuries or deaths to residents;
  - D) number of beds not usable due to the event;
  - E) estimate of the extent of damages to the facility;
  - F) type of assistance needed, if any;
  - G) other state or local agencies notified about the problem.
- 2) If the emergency will not require direct Departmental assistance, the facility shall provide the preliminary report

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## Section 350.690(b)(2) (continued)

within 24 hours of the incident. Additionally, the Department shall receive a full written account within seven ~~(7)~~ days of the incident which includes the information specified in subsections (b)(1)(A) through (b)(1)(G) of this Section ~~above~~ and a statement of action taken by the facility after the preliminary report. ~~(C)~~

- c) Each facility shall establish and implement policies and procedures in a written plan to provide for the health, safety, welfare and comfort of all residents whenever the temperature and relative humidity inside the residents living, dining, activities or sleeping areas of the facility are equal to or exceed the upper or lower limit lines (the solid lines) of the chart, 'Zones of Physiological Perception, displayed in Table F: Disaster Preparedness Parameters -- Relative Humidity and Temperature. (A, B-~~C~~)

(Source: Amended at 13 Ill. Reg.         , effective         )

## Section 350.700 Serious Incidents and Accidents

- a) The facility shall notify the Department of any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department. ~~(C)~~

1) Notification shall be made by a phone call to the Regional Office within ~~twenty-four (24)~~ hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number. ~~(C)~~

2) A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven ~~(7)~~ days of the occurrence. ~~(C)~~

- b) A descriptive summary of each incident or accident shall be recorded in the progress notes or nurses' notes for each resident involved. ~~(C)~~

- c) The facility shall maintain a file of all written reports of serious incidents or accidents involving residents. ~~(C)~~

(Source: Amended at 13 Ill. Reg.         , effective         )



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## SUBPART D: PERSONNEL

## Section 350.810 Personnel

- a) Sufficient staff in numbers and qualifications shall be on duty all hours of each day to provide services that meet the total needs of the residents. At a minimum, there shall be at least one ~~staff member~~ ~~awake dressed and on duty at all times~~ ~~each of the three (3) eight (8) hour shifts each day~~. (A, B ~~4-6~~)
- b) Regardless of the organization or design of resident living units, the minimum direct care staff-resident ratios are as follows:
  - 1) For units including (a) children under the age of six ~~(6)~~ years, (b) severely and profoundly retarded, (c) severely physically handicapped, and (d) residents who are aggressive, assaultive, or security risks, or (e) who manifest severely hyperactive or psychotic like behavior, the staff/resident ratio shall be ~~2.5~~ two and one-half hours of care per day per resident.
  - 2) For units serving moderately retarded residents requiring habit training, the ratio shall be ~~2.0~~ two hours of care per day per resident.
  - 3) For units serving residents in vocational training programs and adults who work in sheltered employment situations the staff-resident ratio shall be one ~~(1)~~ hour of care per resident per day.
  - 4) Direct care staff includes licensed nurses, auxiliary personnel, qualified mental retardation professionals, and habilitation aides. The health services supervisor is not included in determining the ratio.
- c) The number and categories of personnel to be provided shall be based on the following:
  - 1) Number of residents.
  - 2) Amount and kind of program content, supervision, and personal care needed to meet the particular needs of the residents at all times.
  - 3) Size, physical condition, and the layout of the building including proximity of service areas to the resident's rooms.

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## Section 350.810(c) (continued)

## 4) Medical orders

- d) The facility shall provide an administrator as set forth in Subpart D. (B)
  - e) The facility shall provide a Resident Services Director who is a Qualified Mental Retardation Professional as defined in 40. Section 350.330, who is assigned responsibility for the coordination and monitoring of the residents overall plan of care. The administrator or an individual on the professional staff of the facility may fill this assignment to assure that residents' plans of care are individualized, written in terms of short and long range goals, understandable and utilized; their needs are met through appropriate staff interventions and community resources; and residents are involved, whenever possible, in the preparation of their plan of care. (B ~~4-6~~)
  - f) The facility shall provide activity personnel as set forth in Section 350.1050(c) (B ~~4-6~~)
  - g) The facility shall provide dietary personnel as set forth in Section 350.1810 through 350.1820. (B ~~4-6~~)
  - h) The facility shall designate a staff member suited by training and-or experience to be responsible for social services and for the integration of social services with other elements of the plan of care. (B ~~4-6~~)
  - i) The facility shall provide nursing personnel as set forth in Subpart ~~F. (B 4-6)~~ ~~Section 350.810(c)~~. (B ~~4-6~~)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.820 Consultation Services

- a) The facility shall have all arrangements for each consultant's services in a written agreement setting forth the services to be provided. These agreements shall be updated annually. ~~(6)~~
- b) The facility shall designate a staff member to provide social services to residents.
  - 1) If the staff member designated to provide social services is not a qualified social worker, the facility shall have an effective

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## Section 350.820(b)(1) (continued)

arrangement with a qualified social worker to provide social services consultation. ~~(C)~~

2) ~~1)~~ A qualified social worker is one who meets the definition in Section 350.330. ~~(C)~~

~~A) is licensed by the State of Illinois (registered or certified by the Illinois Department of Registration and Education); and~~

~~B) is a graduate of a school of social work which has been approved by the Council on Social Work Education (Some schools are approved for Bachelors Degree programs and others for Masters Degree); and~~

~~C) has one (1) year of social work experience in a health care setting.~~

d) The facility shall designate a staff member to be the director of the activities program. If this person is not a Registered Occupational Therapist, a Therapeutic Recreation Specialist, or a Qualified Social Worker, the facility shall have a written agreement made with a person from one of those disciplines, to provide consultation to the Activity Director and shall assure the programming meets the needs of the residents. ~~(C)~~

d) If the supervisor of health services is not a nurse currently registered to practice as a registered professional nurse in Illinois, arrangements shall be made for consultation from a person so qualified. The consultant shall assist with the development of policies, methods, and procedures relating to the medical program and in-service training for all aspects of personal and nursing care. The consultant shall give this consultation in the facility not less than four ~~(4)~~ hours each week. ~~(C)~~

e) The facility shall make arrangements for a consultant pharmacist as set forth in Section 350.410(a) and (c). ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.830 Personnel Policies

The personnel policies required in Section 350.670 and other personnel policies adopted by the facility shall be followed in the operation of the

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## Section 350.830 (continued)

facility. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

## Section 350.1010 Service Programs

The facility shall provide, either directly or through arrangements with an outside resource, as needed by the individual resident, all resident living services, training and guidance necessary in the activities of daily living and in the development of self-help skills for maximum independence. These services shall consist of at a minimum the following: ~~(B)(C)~~

a) Psychological Services (as defined in Section 350.1020) ~~(B)(C)~~

b) Social Services (as defined in Section 350.1030) ~~(B)(C)~~

c) Speech Pathology and Audiology Services (as defined in Section 350.1040) ~~(B)(C)~~

d) Organized Recreational Activities Services (as defined in Section 350.1050) ~~(B)(C)~~

e) Training and Habilitation Services (as defined in Section 350.1060) ~~(B)(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1020 Psychological Services

a) Psychological services shall be provided to residents, directly through contact with psychologists and indirectly through the psychologists' consultation with other persons involved in psychological testing of ~~and/or~~ or behavior modification of residents. ~~(B)(C)~~

b) Psychologists shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents for the purpose of initiating and monitoring individual habilitation programs. ~~(C)~~

c) The psychologist shall report and disseminate the evaluation results in such a manner that the information, useful to the staff working



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## Section 350.1020(c) (continued)

with the resident, will be promptly provided and that confidentiality will be maintained. ~~(C)~~

- d) Psychologists shall participate, when appropriate, in the development of written, detailed, specific and individualized habilitation program plans, that provide for periodic review, follow-up and updating and that are designed to maximize each resident's development and acquisition of: ~~(C)~~

- 1) Perceptual skills ~~(C)~~
- 2) Sensorimotor skills ~~(C)~~
- 3) Self-help skills ~~(C)~~
- 4) Communication skills ~~(C)~~
- 5) Social skills ~~(C)~~
- 6) Self direction ~~(C)~~
- 7) Emotional stability ~~(C)~~
- 8) Effective use of time (including leisure time) ~~(C)~~

- e) The facility shall employ sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the various psychological service activities in accordance with the needs of the following functions: ~~(B-C)~~

- 1) Psychological services to residents including evaluation, consultation, therapy, and program development ~~(C)~~
- 2) Administration and supervision of psychological services ~~(C)~~
- 3) Staff training ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.1030 Social Services

- a) Social services, as part of an interdisciplinary spectrum of services, shall be provided to the residents through the use of social work methods directed toward: ~~(B-C)~~

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## Section 350.1030(a) (continued)

- 1) Maximizing the social functioning of each resident. ~~(C)~~
- 2) Enhancing the coping capacity of the resident or his family. ~~(C)~~
- 3) Asserting and safeguarding the human and civil rights of the developmentally disabled and their families, and fostering the human dignity and personal worth of each resident. ~~(C)~~
- b) The resident and his family shall be helped by social workers during the evaluation process, which may or may not lead to admission, to consider alternative services, based on the developmentally disabled person's status and salient family and community factors, and to make a responsible choice as to whether and when residential placement is indicated. ~~(C)~~
- c) Social workers shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents for the purposes of initiation, monitoring, and follow-up of individualized habilitation programs. ~~(C)~~
- d) As appropriate during the developmentally disabled person's admission to and while receiving services in the facility, the social worker shall provide liaison between him, the facility, the family, and the community, so as to help the staff to: ~~(C)~~
  - 1) Individualize and understand the needs of the resident and his family in relation to each other. ~~(C)~~
  - 2) Understand social factors, including staff/resident relationships, in the resident's day-to-day behavior. ~~(C)~~
  - 3) Prepare the resident for changes in his living situation. ~~(C)~~
- e) Social workers shall help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility through: ~~(C)~~
  - 1) Collateral counseling concerned with problems associated with changes in family structure and functioning. ~~(C)~~
  - 2) Referral to specific services, as appropriate. ~~(C)~~
  - 3) Help the family to participate in planning for the resident's return to home or other community placement. ~~(C)~~

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## Section 350.1030 (continued)

f) The facility shall employ sufficient, appropriately qualified staff, and necessary supporting personnel to carry out the various social service activities to meet the program needs of the residents. (B-~~G~~)

- 1) Social worker services to the residents shall be provided or supervised by a qualified social worker. (B-~~G~~)
- 2) Social work assistants or aides employed by the facility shall work under the supervision of a social worker having the qualifications specified in Section 350.1030(f)(1). (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1040 Speech Pathology and Audiology Services

a) Speech pathology and audiology services shall be provided to meet the needs of the residents through the following: (B-~~G~~)

- 1) Direct contact between speech pathologists, audiologists and residents. ~~(G)~~
- 2) Working with other personnel, such as teachers and direct care staff, in implementing communication improvement programs. ~~(G)~~

b) Speech pathology and audiology services available to the facility shall include the following:

- 1) Screening and evaluation of residents with respect to speech and hearing functions. ~~(G)~~
- 2) Comprehensive audiological assessment of residents, as indicated by screening results, to include tests of puretone air and bone conduction, speech audiometry, and other procedures, as necessary, and to include assessment of the use of visual cues. ~~(G)~~
- 3) Assessment of the use of amplification. ~~(G)~~
- 4) Provision for procurement, maintenance, and replacement of hearing aids, as specified by a qualified audiologist. ~~(G)~~
- 5) Comprehensive speech and language evaluation of residents, as

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indicated by screening results, which include appraisal of articulation, voice, rhythm and language. ~~(G)~~

- 6) Participation in the continuing interdisciplinary evaluation of individual residents for purposes of initiation, monitoring, and follow-up of individualized habilitation programs. ~~(G)~~
- 7) Treatment services interpreted as an extension of the evaluation process that include: ~~(G)~~
  - A) Direct counseling with residents. ~~(G)~~
  - B) Consultation with appropriate staff for speech improvement and speech education activities. ~~(G)~~
  - C) Collaboration with appropriate staff to develop specialized programs for developing the communication skills of individuals in comprehension (for example, speech, reading, auditory training, and hearing aid utilization) as well as expression (for example, improvement in articulation, voice, rhythm, and language). ~~(G)~~
- 8) Participation in inservice programs for direct care and other staff. ~~(G)~~
- 9) Report evaluation and assessment results accurately and systematically, and in such manner as to, where appropriate, provide information useful to other staff working directly with the resident and to provide evaluative and summary reports for inclusion in the resident's unit record. ~~(G)~~
- 10) Continuing observations of treatment progress shall be recorded accurately, summarized, communicated and utilized in evaluating progress. ~~(G)~~
  - c) There shall be provided sufficient, appropriately qualified staff, and necessary supporting personnel, to carry out the various speech pathology and audiology services, in accordance with stated goals and objectives. (B-~~G~~)
  - d) Staff who assume independent responsibilities for clinical services shall meet the requirements as defined in Section 350.330. (B-~~G~~)
  - e) Adequate, direct and continuing supervision shall be provided personnel, volunteers, or supportive personnel utilized in providing



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clinical services. ~~(C)~~

- f) Space, facilities, equipment, and supplies shall be adequate for providing efficient and effective speech pathology and audiology services. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.1050 Recreational and Activities Services

- a) Recreational and activity services shall be coordinated with other services and programs provided the residents, in order to make fullest possible use of the facility's resources and to maximize benefits to the residents. ~~(C)~~
- b) There shall be a specific planned program of group and individual activities designed to encourage restoration to self-care and maintenance of normal activity which is geared to the individual resident's needs. Activities shall be available daily and for a reasonable amount of time. Residents shall be given an opportunity to contribute to planning, preparation, conducting, cleanup, and critique of the program. (B-~~C~~)
- c) There shall be a trained staff person responsible for planning and directing the activities program. This person shall be on duty for a sufficient amount of time to provide a program that meets the residents' needs and interests. Additional activity personnel shall be provided as necessary to meet the needs of the residents and the program. (B-~~C~~)
- d) There shall be written permission, with any contraindications stated, given by the resident's physician for the resident to participate in the activity program. Standing orders will be acceptable with individual contraindications noted. (B-~~C~~)
- e) The recreation activity program shall include, but is not limited to, the following program areas:
- 1) Recreational activities (examples: games, both quiet and active; parties; outside entertainment~~(C)~~). ~~(C)~~
  - 2) Arts and crafts (applicable for both men and women). ~~(C)~~
  - 3) Religious activities (examples: Bible study or discussion;

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Bible quizzes and games; hymn singing; grace at meals~~(C)~~. These are in addition to routine religious services. ~~(C)~~

- 4) Service activities for community ~~and/or~~ or facility (examples: assist with community fund drives; projects for orphanages; care of one's own area in the facility; helping to fold linen~~(C)~~). ~~(C)~~
- 5) Intellectual and educational activities (examples: classes in writing, arithmetic, grooming, and social graces; planned group discussion; quizzes and word games; resident council; newsletter~~(C)~~). ~~(C)~~
- 6) Community activities (examples: residents' participation in community activities such as plays; church events; band concerts; tours~~(C)~~). ~~(C)~~
- 7) A planned volunteer ~~and/or~~ or auxiliary program that assists with the activities program shall be encouraged. It shall be under the direction of a staff member in a supervisory capacity. ~~(C)~~
- f) Equipment and supplies in sufficient quantity and variety shall be provided to carry out the stated objectives of the activities programs. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.1060 Training and Habilitation Services

- a) The facility shall provide training and habilitation services to facilitate the intellectual, sensorimotor, and effective development of each resident in the facility. (B-~~C~~)
- b) Each resident shall have individual evaluations which shall:
  - 1) Be based upon the use of empirically reliable and valid instruments whenever such tools are available. ~~(C)~~
  - 2) Provide the basis for prescribing an appropriate program of training experiences for the resident. ~~(C)~~
- c) There shall be written training and habilitation objectives for each

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resident that are: ~~(C)~~

- 1) Based upon complete and relevant diagnostic and prognostic data. ~~(C)~~
- 2) Stated in specific behavioral terms that permit the progress of the individual to be assessed. ~~(C)~~
- d) There shall be evidence of training and habilitation services activities designed to meet the training and habilitation objectives set for every resident. ~~(B, C)~~
- e) There shall be a functional training and habilitation record for each resident, maintained by and available to the training and habilitation staff. ~~(C)~~
- f) Appropriate training and habilitation program shall be provided residents with hearing, vision, perceptual, or motor impairments, in cooperation with appropriate staff. ~~(C)~~

g) There shall be available sufficient, appropriately qualified training and habilitation personnel, and necessary supporting staff, to carry out the training and habilitation program. Supervision of delivery of training and habilitation services shall be the responsibility of a person who is a Qualified Mental Retardation Professional. ~~(B, C)~~

h) Where appropriate, providers should cooperate with the Department of Mental Health and Developmental Disabilities and community agencies in assisting individual residents to avail themselves of specialized work activity programs, prevocational and work adjustment training, ~~and/or~~ or sheltered workshop programs. ~~(C)~~

i) Appropriate records shall be maintained for each resident functioning in these programs. These shall show appropriateness of the program for the individual, resident's response to the program and any other pertinent observations and shall become a part of the resident's record. ~~(C)~~

j) Residents shall not be used to replace employed staff. ~~(B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 350.1070 Training and Habilitation Staff

Appropriately qualified staff shall be provided in sufficient numbers to meet the training and habilitation needs of the residents. At a minimum, staffing shall be provided as described in Section 350.810(b) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: HEALTH SERVICES

## Section 350.1210 Health Services

The facility shall provide all services necessary to maintain each resident in good physical health. These services include, but are not limited to, the following: (A, ~~B, C~~)

- a) Physician services including a complete physical examination at least annually and formal arrangements to provide for medical emergencies on a ~~twenty-four~~ ~~(24)~~ hour, seven ~~(7)~~ day-a-week basis. ~~(B, C)~~
- b) Nursing services to provide immediate supervision of the health needs of each resident by a registered professional nurse or a licensed practical nurse, or the equivalent. ~~(B, C)~~
- c) Dental services to provide evaluation, diagnosis, treatment and annual review, including care for dental emergencies, administered by or under the supervision of a dentist licensed in the State to practice dentistry or dental surgery. ~~(B, C)~~
- d) Physical and occupational therapy services for purposes of initiating, monitoring and follow-up of individualized treatment programs rendered by or under the supervision of a physician with special training or experience in the specialty or a physical therapist or an occupational therapist. ~~(B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1220 Physician Services

- a) The facility shall have a written program of medical services that reflects the philosophy of care provided, the policies relating to this, and the procedures for implementation of the services. The program shall include the health services provided by the facility and the arrangements to effect a transfer to other facilities as



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- promptly as needed. The written program of medical services shall be followed in the operation of the facility. (B-~~C~~)
- b) There shall be a formal arrangement for qualified medical care for the facility, including care for medical emergencies on a ~~twenty-four (24)~~ hour, seven ~~(7)~~ days-a-week basis. The facility shall have an advisory physician, fully licensed to practice medicine in Illinois to provide advice on general health conditions and practices of the facility. (B-~~C~~)
  - c) The services of a physician licensed to practice medicine in Illinois shall be available to every resident in the facility. Residents in facilities operated under Bonafide Christian Science auspices may be exempt from this requirement. (A, B)
  - d) The resident or his guardian shall be permitted his choice of physicians.
  - e) All residents ~~each resident~~ shall be seen by ~~his/her~~ their physician as often as necessary to assure adequate health care (Medicare-Medicaid requires certification visits). (A, B-~~C~~)
  - f) Physicians shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual residents, for the purposes of initiation, monitoring, and follow-up of individualized habilitation programs for treatment. ~~(C)~~
  - g) The statement of treatment goals and management plans shall be reviewed and updated at least semiannually to insure continuing appropriateness of the goals, consistency of management methods with the goals, and the achievement of progress toward the goals. ~~(C)~~
  - h) The facility maintains effective arrangements through which medical and remedial services required by the resident but not regularly provided within the facility can be obtained promptly when needed. (B-~~C~~)
  - i) The administrator shall assume the responsibility for meeting the Department's rules entitled ~~all the "Rules for the"~~ "Control of Communicable Diseases Code" (77 Ill. Rev. Stat. 690) ~~Illinois Department of Public Health~~, so that there is a minimum danger of transmission of contagious, infectious, or communicable diseases. (B)
  - j) No resident with a communicable, contagious, or infectious disease shall be admitted knowingly. An exception shall be a resident whose

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## Section 350.1220(j) (continued)

- only such infectious condition is one or more chronic decubital ulcers, from which laboratory tests have proven the presence of a pathogenic organism. Such a resident may be admitted when the facility is capable of implementing appropriate treatment and isolation techniques, to avoid secondary spread of infection. Additional exceptions may be requested on an individual case basis. Permission to admit or keep a resident with any other communicable, contagious, or infectious disease shall require the written approval of both the Department. Such approval will be dependent upon the nature of the infectious condition or disease and the capability of the facility to provide proper care to the resident and to adequately safeguard the staff and other residents of the facility from secondary spread of infection. Any resident when suspected or diagnosed as having any communicable, contagious, or infectious disease, shall be placed in the appropriate type of isolation as required by the Department's rules entitled "~~Rules for the Control of Communicable Diseases Code~~" (77 Ill. Adm. Code 690) ~~Illinois Department of Public Health, and Isolation Techniques for Use in Hospitals, U.S. Public Health Service~~, for the period of time required for each specific disease or until removed from the facility. (A, B-~~C~~)
- k) All illnesses required to be reported under Section 350.1220(k), shall be reported immediately to the local health department ~~and for~~ and to this Department. The administrator shall furnish all pertinent information relating to such occurrences. (B-~~C~~)
  - l) Each resident admitted shall have a complete physical examination, within five ~~(5)~~ days prior to admission, or within ~~seventy-two (72)~~ hours after admission to the facility. This examination report shall include an evaluation of the resident's condition including height and weight, diagnosis, plan of treatment and recommendations, treatment orders, personal care needs, and permission for participation in the activity program as determined appropriate by the attending physician. The report shall include documentation of the presence or absence of tuberculosis infection by tuberculin skin test in accordance with Section 350.1225 ~~or chest x-ray within one year prior to admission or at the time of examination~~. The report shall also include documentation of the presence or absence of incipient or manifest decubitus ulcers (commonly known as bed sores) with grade, size and location specified, and orders for treatment if present. (A photograph of incipient or manifest decubitus ulcers is recommended on admission.) The report shall also include orders from the physician regarding weighing of the resident, and the frequency of such weighing, if

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ordered. ~~(C)~~

- m) The facility shall notify the resident's physician of any accident, injury, or change in a resident's condition that threatens the health, safety or welfare of a resident, including, but not limited to, the presence of incipient or manifest decubitus ulcers or a weight loss or gain of five ~~(5)~~ percent or more within a period of ~~thirty (30)~~ days. (B, ~~C~~)

- n) At the time of an accident, immediate first aid treatment shall be provided by personnel trained in medically approved first aid procedures. (B, ~~C~~)

- o) The admission information for a resident shall include diagnoses, summary of present medical findings, medical history, mental and physical functioning capacity, prognoses and an explicit recommendation by the physician with respect to admission to or continued care in the facility; it shall also include orders for medications, treatments, restorative services, diet, specific procedures recorded for the health and safety of the resident activities and plans for continuing care and discharge. If this information is not received with the resident at the time of admission, it must be received within ~~forty-eight (48)~~ hours. ~~(C)~~

- p) If a resident becomes unmanageable, he shall be examined by a physician ~~and/or~~ or a psychiatrist. This medical examination shall be made promptly. A psychologist ~~and/or~~ and members of other appropriate professional disciplines should be consulted. (B, ~~C~~)

- q) No resident shall be discharged without the concurrence of the attending physician. All involuntary discharges and transfers shall be in accordance with Sections 3-401 to 3-423 of the Act. ~~(C)~~

- r) No form of seclusion shall be permitted, even if the resident desires it. ~~(C)~~

- s) Restraints shall be used only in an emergency to protect the resident from harming himself or harming other residents, visitors, or staff. If it is necessary to use restraints for this purpose, the attending physician shall be contacted immediately for his orders for this emergency. In the event the attending physician is not immediately available, the facility's advisory physician shall be contacted for such orders. This emergency use of restraints shall be used only

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## Section 350.1220(s) (continued)

temporarily. In a single emergency, restraints shall not be used for a period of more than four ~~(4)~~ hours. If a restraint is used for more than two ~~(2)~~ hours, it must be released for a few minutes at least once every two ~~(2)~~ hours, or more often if necessary. There must be constant observation of the resident while a restraint is being used. No restraints with locking devices may be used. (B)

- t) The reason for ordering and using restraints shall be recorded in the clinical record. There shall be written policies, which are followed in the operation of the facility, covering the use of restraints. ~~(C)~~

(Source: Amended at 13 Ill. Reg.         , effective         )

## Section 350.1225 Tuberculin Skin test Procedures

Tuberculin skin test for employees and residents shall be conducted in accordance with the requirements in this Section.

- a) Where there is documentation for an employee or resident of previous significant skin test reaction and previous treatment for tuberculosis, no skin test is required. The facility shall retain such documentation of testing and treatment in the employee's personnel record or the resident's medical record.
- b) The tuberculin skin test shall consist of five tuberculin units of purified protein derivative administered intradermally using the Mantoux method.
- c) A significant reaction shall be considered to exist when either of the following conditions are present:
- 1) There is an area of induration of ten mm or more in diameter.
  - 2) There is an area of induration of five mm or more in diameter and the attending physician or local health authority suspect tuberculosis on the basis of disease or exposure.
- d) If the first test is nonsignificant, a second test shall be given at least one week, but no later than three weeks, after the first test.
- e) If the first or second test reaction is significant, or if active tuberculosis is suspected at any time, the attending physician or local health authority shall order any further examinations and



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## Section 350.1225(e) (continued)

treatment which is considered necessary, such as x-rays, cultures, or sputum smears.

(Source: Added at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_.)

## Section 350.1230 Nursing Services

a) Each facility shall have a full-time health service supervisor who is a registered nurse or a licensed practical nurse whose only responsibility is the immediate supervision of the facility's health services. This person shall be on duty a minimum of ~~thirty-six~~ ~~(36)~~ hours, four ~~(4)~~ days per week. At least ~~fifty percent~~ ~~(50%)~~ of this person's hours shall be regularly scheduled some time between 7 A.M. and 7 P.M. There shall be a registered nurse or a licensed practical nurse on duty ~~twenty-four~~ ~~(24)~~ hours per day and seven ~~(7)~~ days per week in charge of health services at all times when the health service supervisor is not on duty. If the health services supervisor is a licensed practical nurse, arrangements for consultation from a registered nurse shall be made as specified in Section 350.1030(d). (B)

1) A) A facility of less than ~~fifty~~ ~~(50)~~ bed capacity may, with written approval from the Department have two nurses share the duties of this position if it is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three ~~(3)~~ weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full-time; and information about the number and availability of licensed nurses in the area. The Department will grant approval only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full-time.

B) If two persons are to share the position, one shall be

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## Section 350.1230(a)(1)(B) (continued)

designated the Health Services Supervisor and the other shall be designated the Assistant Health Services Supervisor. Both of these persons may be R.N.'s, both may be LPN's, or one may be an R.N. and the other an LPN. In the latter case, the R.N. shall be designated the Health Services Supervisor and the LPN shall be designated the Assistant Health Services Supervisor.

- 2) In facilities with a capacity of less than ~~fifty~~ ~~(50)~~ beds, this person (or these persons), may also provide direct patient care, and ~~their~~ ~~their~~ time may be included in meeting the staff/resident ratio requirements. (350.1230(b))
- b) A licensed practical nurse who is the health services supervisor shall either be a graduate of a State approved school of practical nursing or equivalent. (See Definitions, Section 350.330). ~~(C)~~
- c) Residents shall be provided with nursing services, in accordance with their needs and which shall include, but are not limited to, the following: The Health Services Supervisor's participation in:
  - 1) The pre-admission evaluation study and plan.
  - 2) The evaluation study, program design, and placement of the resident at the time of admission to the facility.
  - 3) The periodic reevaluation of the type, extent, and quality of services and programming.
  - 4) The development of discharge plans, and the referral to appropriate community resources.
  - 5) Training in habits in personal hygiene.
  - 6) Development of a written plan for each resident to provide for nursing services as part of the total habilitation program.
  - 7) Modification of the resident care plan, in terms of the resident's daily needs.
- d) A registered nurse shall participate, as appropriate, in the planning and implementation of training of facility personnel.
- e) Direct care personnel shall be trained in, but are not limited to, the following:

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- 1) Detecting signs of illness, dysfunction or maladaptive behavior that warrant medical, nursing or psychosocial intervention. (B-~~6~~-G)
- 2) Basic skills required to meet the health needs and problems of the residents. (B-~~6~~-G)
- 3) First aid in the presence of accident or illness. (B-~~6~~-G)
- f) There shall be available sufficient, appropriately qualified nursing staff, which may include currently licensed practical nurses and other supporting personnel, to carry out the various nursing service activities. (A, B)
- g) The individual responsible for the provision of nursing services shall have knowledge and experience in the field of developmental disabilities. (C)
- h) Nursing service personnel at all levels of experience and competence shall be assigned responsibilities in accordance with their qualifications. (B-~~6~~-G)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.1240 Dental Services

- a) There shall be comprehensive diagnostic services for all residents which include a complete extra and intra oral examination utilizing all diagnostic aides necessary to properly evaluate the resident's oral condition, within a period of one ~~4~~ month following admission unless such an examination was done within six ~~6~~ months of admission, and the results are received and reviewed by the facility and are entered in the resident's record. (B-~~6~~-G)
- b) There shall be comprehensive treatment services for all residents which include, but are not limited to, the following: (B-~~6~~-G)
  - 1) Provision for dental treatment.
  - 2) Provision for emergency treatment on a ~~twenty-four~~ ~~(24)~~ hour, seven ~~7~~ days a week basis, by a qualified dentist.
  - 3) A recall system that will assure that each resident is reexamined at specified intervals in accordance with his needs,

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## Section 350.1240(b)(3) (continued)

but at least annually.

- c) There is education and training in the maintenance of oral health and a dental hygiene program that includes: (B-~~6~~-G) Imparting information regarding nutrition and diet control measures to residents and staff; instruction of residents and staff in living units in proper oral hygiene methods; and instruction of parents or surrogates in the maintenance of proper oral hygiene, where appropriate (as in the case of residents leaving the facility).
- d) A permanent dental record shall be maintained for each resident. A summary dental progress report shall be entered in the resident's unit record at stated intervals. A copy of the permanent dental record shall be provided a facility to which a resident is transferred. (B-~~6~~-G)
- e) There shall be a formal arrangement for providing qualified and adequate dental services to the facility, including care in dental emergencies on a ~~twenty-four~~ ~~(24)~~ hour, seven ~~7~~ days-a-week basis. (B-~~6~~-G)
- f) There shall be available sufficient, appropriately qualified dental personnel, and necessary supporting staff, to carry out the dental services program. All dentists providing services to the facility shall be fully licensed to practice in the State of Illinois. All dental hygienists providing services to the facility shall be licensed to practice in the State of Illinois. (B-~~6~~-G)
- g) Each facility shall have a denture and dental prosthesis marking system which takes into account the identification marking system contained in Ill. Rev. Stat., ~~1983~~ ~~1987~~, ch. 111, par. ~~2202~~ ~~2348~~ ~~"Manufacture of dentures and dental prostheses"~~ ~~Identification marks.~~ Policies and Procedures shall be written and contained in the Facilities Policies and Procedure Manual. It shall include, at a minimum, provisions for: (B-~~6~~-G)
  - 1) Marking individual dentures or dental prostheses, if not marked prior to admission to the facility, within ten ~~(10)~~ days of admittance; and
  - 2) Individually marked denture cups for denture storage at night.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)



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## Section 350.1250 Physical and Occupational Therapy Services

- a) Physical and occupational therapy services shall be provided as needed by the residents through personal contact of the therapists directly with the residents ~~and/or~~ or indirectly with persons involved with the residents.
- b) Physical therapy and occupational therapy by the facility or by arrangements with an outside resource shall provide treatment training programs that are designed to preserve and improve abilities for independent function, such as range of motion, strength, tolerance, coordination, and activities of daily living; and to prevent, insofar as possible, irreducible or progressive disabilities, through means such as the use of orthotic and prosthetic appliances, assistive and adaptive devices, positioning, behavior, adaptation, and sensory stimulation.
- c) The therapist shall function closely with the resident's primary physician and with other medical specialists and treatment training progress shall be recorded regularly, evaluated periodically, and used as the basis for continuation or change of the resident's program.
- d) Evaluation results, treatment objectives, plans, procedures, and continuing observations of treatment progress shall be recorded accurately, summarized, communicated, and included in the resident's record.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: MEDICATIONS

## Section 350.1410 Medication Policies and Procedures

- a) Every facility shall adopt written policies and procedures, which are consistent with the purpose of the Act and these Rules and Regulations and which shall be followed in the operation of the facility, for properly and promptly obtaining, dispensing, administering, and disposing of drugs and medications. These policies and procedures shall be in compliance with all applicable Federal, State and local laws. These policies and procedures shall be developed with the advice of a pharmaceutical advisory committee which includes at least one ~~(1)~~ licensed pharmacist, one ~~(1)~~ physician, the administrator and the Health Services Supervisor. This Committee shall meet at least quarterly. (B-~~6~~)

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- b) All legend medications maintained in the facility shall be on individual prescription or from the physician's personal office supply, and shall be properly labeled as set forth in 350.1440(f). A physician who supplies medication from his personal office supply must comply with the ~~all~~ requirements of Section 33 of the "Medical Practice Act of 1987" (Ill. Rev. Stat. ~~1981~~ 1987, ch. 111, par. ~~4401~~ 4400-33 et seq.) ~~and the "Illinois Controlled Substances Act" (Ill. Rev. Stat. 1981, ch. 56 1/2, par. 1100 et seq.), and the Rules promulgated thereunder.~~ (B-~~6~~)
- c) All medications administered shall be properly recorded as set forth in 350.1620(g). (B-~~6~~)
- d) The staff pharmacist or consultant pharmacist shall participate in the planned in-service education program of the facility on topics related to pharmaceutical services. ~~(6)~~
- e) Permission must be obtained from this Department prior to the opening of any pharmacy in a facility. Such permission will be granted only if it can be shown that the operation of the pharmacy will not interfere in any way with the residents. The pharmacist shall then obtain a license to operate the pharmacy in accordance with the rules and regulations of the Illinois Department of Professional Regulation ~~Registration and Education.~~
- f) No facility shall maintain a stock supply of controlled drugs or legend drugs, except for those emergency life saving drugs required in the emergency medication kit, as described in 350.1410(j). (B-~~6~~)
- g) A facility may stock only drugs which are regularly available without prescription at a commercial pharmacy, such as: noncontrolled cough syrups, laxatives, and analgesics. These shall be given to a resident only upon written order of the physician, dentist, or podiatrist, shall be administered from the original containers, and shall be recorded in the resident's clinical record. (B-~~6~~)
- h) A facility may keep "convenience boxes" containing a reasonable number of medications normally used to treat conditions when residents suddenly become ill in non-life-threatening situations. There shall be no more than six ~~(6)~~ single doses of any one medication for each ~~one hundred (100)~~ licensed beds or portion thereof. Such conditions may include, but are not limited to: convulsions, serious emotional upsets, diarrhea, infection, and severe pain ~~etc.~~. A dose shall be that amount listed by the

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manufacturer as the "usual dose" of the medication for adults. If the "usual dose" is two ~~(2)~~ tablets in the convenience box. (B-~~G~~)

j) Since emergency medication kits must be available for immediate use at all times, the following requirements must be met when controlled substances are kept as part of the emergency medication kits: (B-~~G~~)

- 1) The contents and number of these "convenience boxes" shall be determined by the pharmaceutical advisory committee, and there shall be a label on the outside of each box, listing the contents. (B-~~G~~)
  - 2) Each "convenience box" shall be under the control of the pharmacy which supplies the contents of the box, and it shall be kept in a locked medicine room or cabinet. (B-~~G~~)
  - 3) No Schedule II substances shall be kept in "convenience boxes." (B-~~G~~)
  - 4) Emergency medication kits containing drugs necessary for life saving measures shall be approved by the facility's pharmaceutical advisory committee, and shall be available for immediate use at all times in locations as determined by the pharmaceutical advisory committee. (B-~~G~~)
    - 1) In order to provide better security for the contents of these kits, it is recommended that some type of seal be placed on each kit after it has been checked and refilled. This would insure that the contents of each kit is intact when needed in an emergency.
    - 2) These kits shall consist of no more than three ~~(3)~~ single, injectable doses of only a few medications, such as those necessary to treat: cardiac arrest, acute coronary, acute cardiac failure, asthmatic ~~and/or~~ and allergic reactions, acute convulsion, acute pain, shock, diabetic coma, insulin shock, and an acute respiratory infection requiring emergency administration of a starter dose of an injectable antibiotic. The kits should also contain all of the equipment needed to administer these medications, such as a tourniquet, proper size needles and syringes, and alcohol swabs. It is also permissible to have an airway in these kits. (A, B-~~G~~)
    - 3) The contents of these kits shall be labeled on the outside of each kit. The kits shall be refilled as needed. They shall be reviewed by the pharmaceutical advisory committee regarding contents at least quarterly. Written documentation of this review shall be maintained. (B-~~G~~)
- 1) The controlled substances must be stored separately in a locked cabinet or room, and labeled as to substance and the fact that they are a part of the emergency medication kit. The label of the emergency kit shall list the substance and the specific location where it is stored. (B-~~G~~)
  - 2) The controlled substances must be obtained from a Drug Enforcement Administration registered hospital, pharmacy, or practitioner. (B-~~G~~)
  - 3) Only the director of nursing services, registered nurse on duty, licensed practical nurse on duty, consultant pharmacist or practitioner shall have access to these controlled substances. (B-~~G~~)
  - 4) No more than ten different controlled substances shall be kept as part of an emergency medication kit, and there shall be no more than three single, injectable doses of any one controlled substance. (B-~~G~~)
  - 5) These controlled substances may be administered only under the emergency conditions set forth in Section 350.1410(i)(2) and only by registered nurse, licensed practical nurses or practitioners, in compliance with 21 CFR 1306.11 and 21 CFR 1306.21 and the Department of Professional Regulation's ~~Registration and Education~~ Rule 52 for the Administration of the Illinois Controlled Substance Act. (B-~~G~~)
  - 6) A proof-of-use sheet shall be stored with each separate controlled substance. Entries shall be made on the proof-of-use sheet by the nursing staff or practitioner when any controlled substance from the kit is used. The consultant pharmacist shall receive and file for two years a copy of all completed proof-of-use sheets. (B-~~G~~)
  - 7) Whenever the controlled substance portion of an emergency medication kit is opened, the consultant pharmacist shall be notified within 24 hours. During any period when this kit is opened, a shift count shall be done on all controlled substances until the kit is closed or locked by the consultant pharmacist.



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Shift counts are not mandatory when the kit is sealed. Proper forms for shift counts shall be kept with these portions of emergency medication kits. (B-6-6)

- 8) The consultant pharmacist shall check the controlled substances portions of emergency medication kits at least monthly and so document on the outside of each kit. (B-6-6)
- 9) Failure to comply with any provision of this rule, or of any applicable provision of state or federal statutes or regulations pertaining to controlled substances shall result in loss of the privilege of having or placing controlled substances in emergency medication kits until such time as the facility can demonstrate that it is in compliance with such regulations. This is in addition to the usual methods of corrective action available to the Department, such as fines ~~and/or~~ or other penalties.

- k) Oxygen may be administered in a facility either as concentrated bottled oxygen or via means of an oxygen concentrator. Storage and handling of the bottled oxygen supply shall be in accordance with the 1977 National Fire Protection Association Standards, but no subsequently amended edition of the Standards, for nonflammable medical gas systems. (See Section 350.2620 or Section 350.2920 as appropriate). The facility must be in compliance with directions for use of oxygen concentrators as established by the manufacturer. (A, B-6-6)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1420 Conformance with Physician's Orders

- a) All medications, including cathartics, headache remedies, or vitamins, shall be given only upon the written order of a physician. (Rubber stamp signatures are not acceptable.) All such orders shall have the handwritten signature of the physician. These medications shall be given as prescribed by the physician and at the designated time. (A, B-6-6) Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written on the resident's clinical record, or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within five ~~(5)~~ working days. Facilities participating in Medicare/Medicaid must meet the applicable Federal regulations. (B-6-6)

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## Section 350.1420 (continued)

- b) Review of medication orders: The staff pharmacist or consultant pharmacist shall review the medical record, including physician orders and laboratory test results, at least monthly and, based on ~~his/her~~ their clinical experience and judgment, determine if there are irregularities which would cause potential adverse reactions, allergies, contraindications, or ineffectiveness. This review shall be done at the facility. Documentation of this review must be entered in the clinical record. Any irregularities noted shall be reported to the attending physician, the advisory physician, and the administrator. (A, B-6-6)
- c) A medication order not specifically limiting the time or number of doses shall be automatically stopped in accordance with written policy approved by the pharmaceutical advisory committee. (B-6-6)
- d) The resident's attending physician shall be notified of medications about to be stopped so that ~~he/she~~ the physician may promptly renew such orders to avoid interruption of the resident's therapeutic regimen. (B-6-6)
- e) All medications to be released to the resident, or person responsible for ~~his/her~~ the resident's care, at the time of discharge or when the resident is going to be temporarily out of the facility at medication time (such as when attending a vocational training program or on a weekend pass) shall be approved by the physician. A notation concerning their disposition shall be made on the resident's clinical record. ~~(6-6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1430 Administration of Medication

- a) All medications shall be administered only by licensed medical or licensed nursing personnel, in accordance with their respective licensing requirements. (Some schools of nursing, especially some licensed practical nursing schools, do not include pharmacology courses. It is required that graduates of such schools successfully complete a course in pharmacology or have at least one year's full-time equivalent experience in administering medications in a health care setting, in order to be considered to "have either training or experience, or both, in the job assigned to them" (Section 350.670(b)(1), if their duties include administering medications to residents.) (A, B-6-6) Attorney General's Opinion File No. S-1033 ~~5-1033~~, dated January 9, 1976 concluded that the

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## Section 350.1430(a) (continued)

administration of medication to residents of licensed long-term care facilities is a nursing procedure, as defined in the Illinois Nursing Act (Ill. Rev. Stat. 1973, ch. 91, pars. 35.32 et seq.), and as such, cannot be performed by persons who are not licensed as either Registered Professional Nurses or Licensed Practical Nurses. The opinion concluded by stating that "nursing aides, orderlies, attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer medications to patients in nursing homes." Written approval must be obtained from the attending physician before any resident is enrolled in such a training program. ~~(C)~~

1) Medications shall be administered as soon as possible after doses are prepared and administered by the same person who prepared the doses for administration, except under single unit dose packaged distribution systems. (B-~~C~~)

2) Each dose administered shall be properly recorded in the clinical record by the person who administered the dose. (See 350.1620(g) (A, B-~~C~~))

3) Self-administration of medication shall be permitted only upon the written order of the attending physician. (B-~~C~~)

b) The facility shall have medication records which shall be used and checked against the physician's orders to assure proper administration of medicine to each resident. Such records as computer generated medication sheets may be used. Medication records shall include or be accompanied by recent photographs or other means of easy identification such as resident identification wristbands. Medication records shall contain the resident's name, diagnoses, known allergies, and current medications, and, if possible, a history of prescription and non-prescription medications taken by the resident during the ~~thirty~~ (30) days prior to admission to the facility. (B-~~C~~)

c) Medications prescribed for one resident shall not be administered to another resident. (B-~~C~~)

d) If for any reason, a physician's medication order cannot be followed, the physician shall be notified as soon as is reasonable, depending upon the situation, and a notation made on the resident's record. (B-~~C~~)

e) Medication errors and drug reactions shall be immediately reported to

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## Section 350.1430(e) (continued)

the resident's physician and the consulting pharmacist. An entry thereof shall be made in the resident's clinical record and the error or reaction shall also be described on an incident report. (A, B)

f) Nurses' stations shall be equipped as per Sections 350.2660(e) and Section 350.2960(d) shall have all necessary items readily available for the proper administration of medications. ~~(C)~~

g) Current medication reference shall be available, such as the current edition of "Facts and Comparisons, Hospital Formulary", "Physician's Desk References" or other suitable references. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1440 Labeling and Storage

a) All medications for all residents shall be properly labeled and stored at, or near the nurses' station in a locked cabinet, in a locked medication room, or one or more locked mobile medication carts of satisfactory design for such storage. (See 350.1440(f) and 350.1440(g) (B))

1) These cabinets, rooms, ~~and/or~~ or carts shall be well lighted and of sufficient size to permit storage without crowding. (B-~~C~~)

2) All mobile medication carts shall be under the visual control of the responsible nurse at all times when not stored safely and securely - either in a locked room or otherwise made immobile. (B-~~C~~)

b) All medications for external use shall be kept in a separate area in the cabinet, medicine room, or locked mobile medication cart. (B-~~C~~)

c) All poisonous substances and other hazardous compounds, such as sterilization solutions, irrigation solutions, antiseptics, and diagnostic reagents ~~etc.~~ shall be kept in a separate locked container away from medications. (B)

d) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked box within a refrigerator or a locked refrigerator, at or near the nurses' station or in a refrigerator within a locked medication room. (B)



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## Section 350.1440 (continued)

- e) The key to the medicine cabinet, medicine room ~~and/or~~ or mobile medication cart shall be the responsibility of, and in the possession of, the persons authorized to handle and administer drugs, at all times. (B-~~C~~)
- f) The label of each individual multi-dose medication container filled by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name, strength, and quantity of drug, date this container was last filled, the initials of the pharmacist filling the prescription, the identity of the pharmacy and any necessary special instructions. If the individual multi-dose medication container is filled by a physician from his own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist and prescription number. ~~(B-~~C~~)~~

- g) Each single unit ~~and/or~~ or unit dose package shall bear the proprietary ~~and/or~~ or nonproprietary name of the drug, strength of dose and total contents delivered, lot or control number, and expiration date, if applicable. The names of the resident and the physician do not have to be on the label of the package, but they must be identified with the package in such a manner as to assure that the drug is administered to the right resident. Appropriate accessory and cautionary statements and any necessary special instruction shall be included, as applicable. Hardware for storing and delivering the medications shall have a label bearing the identity of the dispensing pharmacy. The pharmacist shall provide written verification of the date the medications were dispensed and the initials of the pharmacist who reviewed and verified the medications on hand. The pharmacist need not store such verification at the facility but shall readily make it available to the Department upon request. The lot or control number need not appear on unit dose packages if the dispensing pharmacy has a system for identifying those doses recalled by the manufacturer/distributor or if the dispensing pharmacy will recall and destroy all dispensed doses of a recalled medication, irrespective of a manufacturer's/distributor's specifically recalled lot. (B-~~C~~)

- h) Medication in containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Medications in containers having no labels shall be destroyed in accordance with Federal and State laws. (B-~~C~~)

- i) The medications of each resident shall be kept and stored in their

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## Section 350.1440(i) (continued)

originally received containers. Medications shall not be transferred between containers, except that a licensed nurse may remove medication from original containers and place it in other containers to be sent with a resident when the resident will be out of the facility at the time of scheduled administration of medication, as, for instance, when the resident is on a home visit or away from the facility for employment, workshop, or educational activities. When medication is sent out of the facility with the resident, it shall be labeled by the nurse with the name of the resident, name of the medication, instructions for taking and any other appropriate information. (B-~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1450 Control of Narcotics and Legend Drugs

- a) The facility shall comply with all Federal and State laws and regulations relating to the procurement, storage, dispensing, administration, and disposal of medications.
- b) All Schedule II controlled substances shall be stored in such a manner so that two ~~(2)~~ separate locks, using two ~~(2)~~ different keys, must be unlocked to obtain these substances. This may be accomplished by several methods such as locked cabinets within locked medicine rooms, separately locked, securely fastened boxes (or drawers) within a locked medicine cabinet, locked portable medication carts, which are stored in locked medicine rooms when not in use, or portable medication carts containing separate locked area within the locked medication cart, when such cart is made immobile. (B-~~C~~)
- c) All discontinued medications, or those having an expiration date that has passed, and all medications of residents who have been discharged or who have expired, shall be disposed of in accordance with the written policies and procedures that have been established by the facility in accordance with 350.1410. This rule shall not apply to residents who have been temporarily transferred to a hospital or who are on a temporary home visit. Medications for such persons shall be kept in the facility unit such time as the resident expires or is discharged from the facility. (B-~~C~~)
- d) For all Schedule II substances, a controlled substances record shall be maintained which lists on separate sheets, for each type and strength of Schedule II substance, the following information: date, time administered, name of resident, dose, physician's name,

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## Section 350.1450(d) (continued)

signature of person administering dose, and number of doses remaining. The pharmaceutical advisory committee may also require that other medications shall be subject to such inventory records.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: RESIDENT AND FACILITY RECORDS

## Section 350.1610 Resident Record Requirements

a) Each facility shall have a medical record system that facilitates the retrieval of information regarding individual residents as demonstrated by the facility. ~~(C)~~

b) The facility shall keep an active medical record for each resident. This resident record shall be kept current, complete, legible and available at all times to those personnel authorized by the facility's policies, and to the Department's representatives. ~~(C)~~

c) Record entries shall meet the following requirements:

- 1) Record entries shall be made by the person providing or supervising the service or observing the occurrence that is being recorded. ~~(C)~~
- 2) Each record entry shall be written in ink or typed, shall be signed, dated, and shall include the profession or title of the person making the entry. ~~(C)~~

d) All physician's orders, plans of treatment, Medicare or Medicaid certification, recertification statements, and similar documents shall have the original written signature of the physician. The use of a physician's rubber stamp signature, with or without initials, is not acceptable. ~~(C)~~

e) An ongoing resident record including progression toward and regression from established resident goals shall be maintained. (B-~~(C)~~)

- 1) The progress record shall indicate significant changes in the resident's condition. Any significant change shall be recorded upon occurrence by the staff person observing the change. (B-~~(C)~~)

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## Section 350.1610(e) (continued)

- 2) Recommendations and findings of direct service consultants, such as providers of social, dental, dietary or habilitation services, shall be included in the resident's progress record when the recommendations pertain to an individual resident. ~~(C)~~

f) A medication administration record shall be maintained which contains the date and time each medication is given, name of drug, dosage, and by whom administered. ~~(C)~~

g) Treatment sheets shall be maintained recording all resident care procedures ordered by each resident's attending physician. Physician ordered procedures which shall be recorded include, but are not limited to, the prevention and treatment of decubitus ulcers, weight monitoring to determine a resident's weight loss or gain, catheter/ostomy care, blood pressure monitoring, and fluid intake and output. ~~(C)~~

h) The records maintained for each resident shall be adequate for:

- 1) Planning and continuously evaluating each resident's habilitation program,
  - 2) Furnishing evidence of each residents progress and response to the habilitation program, and
  - 3) Protecting each resident's legal rights.
- i) The facility shall have the option of using universal progress notes in the medical records.

j) Each facility shall have a policy regarding the retirement and destruction of medical records. This policy shall specify the time frame for retiring a resident's medical record, and the method to be used for record destruction at the end of the record retention period. The facility's record retirement policy shall not conflict with the record retention requirements contained in Section 300.1840 of this Part. ~~(C)~~

k) Discharge information shall be completed within forty-eight hours after the resident leaves the facility. The resident care staff shall record the date, time, condition of the resident, to whom released, and the resident's planned destination (home, another facility, undertaker). This information may be entered onto the admission record form. ~~(C)~~



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## Section 350.1610 (continued)

- 1) Each resident record is the property of the facility. The facility shall be responsible for securing resident record information against loss, defacement, tampering or use by unauthorized persons. ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1620 Content of Medical Records

- a) No later than the time of admission, the facility shall enter the following information onto the identification sheet or admission sheet for each resident:

- 1) Name, sex, date of birth and Social Security Number,
- 2) Marital status, and the name of spouse if there is one,
- 3) Whether the resident has ~~has~~ been previously admitted to the facility,
- 4) Date of current admission to the facility,
- 5) State or country of birth,
- 6) Home address,
- 7) Religious affiliation (if any),
- 8) Name, address and telephone number of any referral agency, state hospital, zone center or hospital from which the resident has been transferred (if applicable),
- 9) Name and telephone number of the resident's personal physician,
- 10) Name and telephone number of the resident's next of kin or responsible relative,
- 11) Race and origin,
- 12) Most recent occupation,
- 13) Whether the resident or ~~his/her~~ the resident's spouse is a veteran,
- 14) Father's name and mother's maiden name, Social Security numbers,

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## Section 350.1620(a)(14) (continued)

mother's birthplace and parents' marital status.

- 15) Name, address and telephone number of the resident's dentist,
  - 16) The diagnosis applicable at the time of admission.
- b) The following information shall be obtained and entered in the resident's record at the time of admission to the facility:
- 1) Heights, weight, color of hair and eyes, any identifying marks and recent photograph,
  - 2) Reason for admission or referral, and the diagnosis applicable at the time of admission,
  - 3) Type and legal status of admission,
  - 4) Legal competency status,
  - 5) Language spoken or understood,
  - 6) Results of the preadmission evaluation conducted pursuant to Section 350.630(a) of this Part, previous histories and any other previous evaluations available, and
  - 7) At the time of admission, the facility shall obtain a history of prescription and non-prescription medications taken by the resident during the ~~entry~~ 30 days prior to admission to the facility (if available).
- c) Within one month after admission, the following information shall be entered into the newly admitted resident's record:
- 1) A statement of prognosis that can be used for programming and placement, and
  - 2) A comprehensive evaluation and individual program plan, design by an interdisciplinary team.
- d) In addition to the information that is specified above, each resident's medical record shall contain the following:
- 1) Medical history and physical examination form that includes conditions for which medications have been prescribed, physical findings, all known diagnoses and restoration potential. This

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## Section 350.1620(d)(1) (continued)

## Section 350.1620(d)(6) (continued)

shall describe those known conditions that the medical and resident care staff should be apprised of regarding the resident. Examples of diagnoses and conditions that are to be included are allergies, epilepsy, diabetes and asthma. ~~(C)~~

made by the physician during the visits, in the record.

2) A physician's order sheet that includes orders for all medications, treatments, therapy and rehabilitation services, diet, activities and special procedures or orders required for the safety and well-being of the resident. ~~(C)~~

7) The results of the physical examination conducted pursuant to Section 350.1220(1) of this Part.

3) Nurse's notes that describe the nursing care provided, observations and assessment of symptoms, reactions to treatments and medications, progression toward or regression from each resident's established goals, and changes in the resident's physical or emotional condition. ~~(B, C)~~

8) Upon admission from a hospital or state facility, a hospital summary sheet or transfer form that includes the hospital diagnosis and treatment, a medical evaluation, physical examination, psychological workup, and a discharge summary. This transfer information, which may be included in the transfer agreement, shall be signed by the physician who attended the resident while in the hospital.

4) An ongoing record of notations describing significant observations or developments regarding each resident's condition and response to treatments and programs.

9) A record of all psychological testing and multidisciplinary evaluations regarding each resident.

A) Physicians and other consultants who provide direct care or treatment to residents shall make notations at the time of each visit with a resident. ~~(C)~~

10) Reports of any seizures, illnesses, and immunizations.

B) Significant observations or developments regarding resident responses to dietary services and work or vocational orientation programs shall be recorded as they are noted. If no significant observations or developments are noted for three months, an entry shall be made in the record of that fact. ~~(C)~~

11) Reports of overall reviews and evaluations of each resident's individualized program plan. These reports shall identify the developmental progress and status of each resident, and shall be completed at least semiannually by each professional discipline providing services to the resident.

C) Significant observations or developments regarding resident responses to activity programs, social services, and nursing and personal care shall be recorded as they are noted. If no significant observations or developments are noted for a month, an entry shall be made in the record of that fact. ~~(C)~~

12) Records of significant behavior incidents, reactions to any family visits and contacts, attendance at programs, and leaves from the facility.

13) Any correspondence pertaining to the resident's program.

14) An update of the information recorded at the time of admission. This update shall be performed at least once every ~~twelve~~ 12 months, with changes in information relevant to the resident's personal physician and responsible relative to be recorded as they occur.

15) Appropriate authorizations and consents.

16) Results of the annual physical examination conducted pursuant to Section 350.1210(a) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

5) Any laboratory and x-ray reports ordered by the resident's physician. ~~(C)~~

6) Documentation of visits to the resident by a physician and to the physician's office by the resident. ~~(C)~~ The physician shall record, or dictate and sign, the results of such visits, such as changes in medication, observations and recommendations



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## Section 350.1630 Confidentiality of Residents' Records

- a) All information contained in a resident's record, including any information contained in an automated data bank, shall be considered confidential. The facility shall permit the appropriate State and federal agencies (such as Illinois Departments of Public Aid, Public Health and Mental Health and Developmental Disabilities, and the U.S. Department of Health and Human Services) to have access to resident records.
- b) The facility shall develop and implement written policies governing access to, duplication of and dissemination of information from medical records.
- c) The facility shall obtain written consent of the resident, or, if a guardian, the resident's guardian, prior to any release of any resident record information to persons not authorized to receive the information.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1640 Records Pertaining to Residents' Property

- a) The facility shall maintain a record of any resident's belongings, including money, valuables and personal property, accepted by the facility for safekeeping. This record shall be initiated at the time of admission and shall be updated on an ongoing basis and made part of the resident's record. ~~(C)~~
- b) When purchases are made for a resident from the resident's personal monies, receipts shall be obtained and retained that verify the date, amount, and items purchased. ~~(C)~~
- c) A separate bookkeeping system shall be maintained by the facility which accounts for all transactions affecting each resident's account. Each individual resident, or the individual resident's representative, shall have access to the record of that individual resident's account. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1650 Retention and Transfer of Resident Records

- a) Records of discharged residents shall be placed in an inactive file and retained as follows:

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- 1) Records for any resident who is discharged prior to being ~~eighteen~~ ~~(18)~~ years old shall be retained at least until the resident reaches the age of ~~twenty-three~~ ~~(23)~~. ~~(C)~~
- 2) Records of residents who are over ~~eighteen~~ ~~(18)~~ years old at the time of discharge shall be retained for a minimum of five ~~(5)~~ years. ~~(C)~~
- b) After the death of a resident, the resident's record shall be retained for a minimum of five ~~(5)~~ years. ~~(C)~~
- c) It is suggested that the administrator check with legal counsel regarding the advisability of retaining resident records for a longer period of time, and the procedures to be followed in the event the facility ceases operation.
- d) When a resident is transferred to another facility, the transferring facility shall send with the resident a reason for transfer, summary of treatment and results, laboratory findings, and orders for the immediate care of the resident. This information may be presented in a transfer form or an abstract of the resident's medical record. ~~(B-C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1660 Other Resident Record Requirements

This Section contains references to rules located in other Subparts that pertain to the content and maintenance of medical records.

- a) The resident's record shall include facts involved if the resident's discharge occurs despite medical advice to the contrary, as required by Section 350.630(g) of this Part.
- b) The resident's record shall contain the physician's permission, with contraindications noted, for participation in the activity program, as required by Section 350.1050(d) of this Part.
- c) The records of residents participating in training and habilitation programs shall document the appropriateness of the program for the resident and the resident's response to the program, as described in Section 350.1060(i) of this Part.
- d) The resident's record shall identify the reasons for any order and

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- use of safety devices or restraints, as required by Section 350.1220(t) of this Part.
- e) The resident's record shall include information regarding the physician's notification and response regarding any serious accident or injury, or significant change in condition, as required by Section 350.1220(m) of this Part.
  - f) Telephone orders shall be transcribed into the resident's medical record or a telephone order form and signed by the nurse taking the order, as described in Section 350.1420(a) of this Part.
  - g) Documentation of the monthly review of the medical record shall be entered in to the resident's medical record as described in Section 350.1420(b) of this Part.
  - h) Instances of inability to implement a physician's medication order shall be noted in the resident's medical record, as described in Section 350.1430(d) of this Part.
  - i) The resident's medical record shall include notations indicating any release of medications to the resident or person responsible for the resident's care, as described in Section 350.1420(e) of this Part.
  - j) Medication errors and drug reactions shall be noted in the resident's medical record as described in Section 350.1430(e) of this Part.
  - k) The resident's record shall include the physician's diet order and observations of the resident's response to the diet, as described in Section 350.1840 of this Part.
  - l) The resident's record shall contain any physician determinations that limit the resident's access to the resident's personal property, as described in Section 350.3210(b) of this Part.
  - m) The facility shall comply with Section 350.3210(g) of this Part, which requires that any medical inadvisability regarding married residents residing in the same room be documented in the resident's record.
  - n) The facility shall permit each resident, resident's parent, guardian or representative to inspect and copy the resident's medical records as provided by Section 350.3220(g) of this Part.
  - o) Any resident transfer or discharge mandated by the physical safety of

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## Section 350.1660(o) (continued)

- other residents shall be documented in the resident's medical record as required by Sections 350.3300(d) and (g) of this Part.
- p) Summaries of discussions and explanations of any planned involuntary transfers or discharges shall be included in the medical record of the resident that is to be involuntarily transferred or discharged, as described in Section 350.3300(j) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1670 Staff Responsibility for Medical Records

The facility shall designate a staff member skilled in record maintenance and preservation who shall be responsible for maintaining and preserving medical records. If the designated person is not a medical records practitioner, then the designated person shall receive consultation from a medical records practitioner in order to meet the medical record requirements contained in this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1680 Retention of Facility Records

The facility shall retain the records referenced in this Section for a minimum of three years. ~~(c)~~ It is suggested that the administrator check with legal counsel regarding the advisability of retaining records for a longer period of time, and the procedures to be followed in the event the facility ceases operation. The records for which this requirement applies are as follows:

- a) The annual financial statement described in Section 350.210 of this Part.
- b) The minutes of resident advisory council meetings required by Section 350.650(j) of this Part.
- c) The records of in-service training required by Section 350.670(b)(3) of this Part.
- d) Copies of reports of serious incidents or accidents involving residents required by Section 350.700 of this Part.
- e) Records of the emergency medication kit review by the pharmaceutical



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- advisory committee required by Section 350.1410(i)(3) of this Part.
- f) The reports of findings and recommendations from consultants required in Section 350.1690(a) of this Part.

- g) Copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation as required by Section 350.1690(a) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 350.1690 Other Facility Record Requirements

- a) The facility shall maintain a file of reports of findings and recommendations from consultants. Each report shall be dated and indicate each specific date and time the consultant was in the facility. ~~(c)~~
- b) The facility shall complete the Illinois Department of Public Health Annual Long Term Care Facility Survey. ~~(c)~~
- c) The facility shall maintain a permanent chronological resident registry showing date of admission, name of resident and date of discharge or death. ~~(c)~~

- d) The facility shall make available to the Department upon request copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation. ~~(c)~~
- and in other sections of this Part that pertain to the content and maintenance of facility records are as follows:

- 1) The facility shall file an annual financial statement as described in Section 350.210 of this Part.
- 2) Records and daily time schedules shall be kept on each employee as set forth in Section 350.670(a) and (b) of this Part.
- 3) The facility shall maintain a controlled substances record as described in Section 350.1450(d) of this Part.
- 4) Menu and food purchase records shall be maintained as set forth in Section 350.1890(a) and (f) of this Part.

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- 5) The facility shall maintain a file of all reports of serious incidents or accidents involving residents as required by Section 350.700 of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART I: FOOD SERVICE

Section 350.1810 Director of Food Services

- a) Each facility shall have a full-time person, suited by training and experience, who has been designated by the administrator to be responsible for the total food service operation of the facility. This person shall be on duty for a minimum of ~~forty~~ 40 hours each week. (B)
- 1) This person shall be either a dietitian or a dietetic service supervisor as defined in Section 350.330. ~~(C)~~
- 2) In facilities of ~~fifty~~ 50 beds or less, the food service supervisor (director) may assume cooking duties provided these duties do not interfere with the responsibilities of management and supervision.

- b) Consultation If the person responsible for food services is not a dietitian, he shall have frequent and regularly scheduled consultation from a qualified dietitian. This consultation, given in the facility, shall be not less than eight ~~(8)~~ 8 hours each month and shall include consultation and training in all food service procedures, such as menu planning ~~and/or~~ or review, food preparation, food storage, food service safety, sanitation and management of therapeutic diets and in-service education.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 350.1820 Dietary Staff in Addition to Director of Food Services

There shall be sufficient number of food service personnel employed and on duty to meet the dietary needs of all persons eating meals in the facility. Their working hours shall be scheduled to meet the total dietary needs of the residents. All dietary employees' time schedules and work assignments shall be posted in the kitchen. Dietary duties and job procedures shall be

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Section 350.1820 (continued)

available in the dietary department for employees' knowledge and use. (~~B~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 350.1830 Hygiene of Dietary Staff

Food service personnel shall be in good health, shall practice hygienic food handling techniques, and good personal grooming. (~~B~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 350.1840 Diet Orders

- a) Physicians shall write, in the medical record, a diet order for residents indicating whether the resident is to have a general or a therapeutic diet and the diet shall be served as ordered. (~~C~~)
- b) A diet order for each resident shall be sent in writing to the food service department for each new admission and for every subsequent change in diet for that resident as ordered by his physician. The diet order shall include, but is not limited to, the following information: name of resident, room ~~and date~~ or bed number, type of diet, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department. (See Section 350.1860 for ordering therapeutic diets.) (~~C~~)

- c) The residents shall be observed to determine acceptance of the diet and these observations shall be recorded in his record. (~~B~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 350.1850 Adequacy of Diet and Meal Pattern (A, B)

The daily food allowance for each resident shall meet the basic food pattern for a general diet for an adult following the recommendations of the Food and Nutrition Board, National Research Council, and shall include: (A, B)

- a) Milk and Milk Products: Two ~~(2)~~ or more eight ~~(8)~~ ounce servings of Grade A whole or low fat pasteurized milk where milk is used for fluid consumption (See Section 350.1900). Cheese and ice

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Section 350.1850(a) (continued)

cream may be used to replace part of the milk. The amount of either needed to replace a given amount of milk is figured on the basis of calcium content. The equivalents are as follows:

- 1) ~~1~~ One inch cube of cheddar type cheese equals ~~1/2~~ one-half cup milk.
- 2) ~~Two-thirds~~ ~~2/3~~ cup cottage cheese equals ~~one-half~~ ~~1/2~~ cup milk.
- 3) ~~One~~ ~~1~~ cup ice cream equals ~~1/2~~ one-half cup milk.

- 4) NOTE: If cheese is used as a serving of milk, it may not be also counted as a serving of protein in the Meat Group.

- b) Meat Group: Two or more servings of protein food of good quality. The following are examples of one ~~(1)~~ serving:

- 1) Three ~~(3)~~ ounces (excluding bone and fat) of any cooked meat such as whole or ground beef, veal, pork or lamb; poultry; organ meats such as liver, heart, kidney; prepared luncheon meats.

- 2) Three ounces cooked fish or shell fish or one half ~~(1/2)~~ cup canned fish.

- 3) Three ounces of natural or processed cheese or three fourths ~~(3/4)~~ cup cottage cheese.

- 4) Three eggs (minimum weight 21 ounces per dozen). NOTE: If one egg is served for breakfast, a protein food of good quality may be reduced from ~~6~~ six to ~~5~~ five ounces for the remaining meals. If ~~2~~ two eggs are served for breakfast, a minimum of ~~2~~ two ounces of protein of good quality shall be served at each of the remaining meals.

- 5) One ~~(1)~~ cup cooked dried peas or beans or six ~~(6)~~ tablespoons of peanut butter, not more than twice a week and provided eggs, milk or lean meat are served at the same meal.

- 6) Combinations of all above examples are acceptable, provided the Minimum Standard of six ~~(6)~~ ounces of a protein food of good quality is served daily and provided the combinations do not conflict with eye appeal or palatability.

- c) Vegetable and Fruit Group: Four ~~(4)~~ or more one half ~~(1/2)~~ cup



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## Section 350.1850(c) (continued)

servings of fruits and/or vegetables.

- 1)
  - A) One ~~(1)~~ serving portions of a good source of Vitamin C (grapefruit, grapefruit juice, orange, orange juice, cantaloupe, raw strawberries, broccoli, brussels sprouts, green peppers, sweet red pepper). OR
  - B) Two ~~(2)~~ servings, One ~~1~~ cup, of a fair source of Vitamin C (raw cabbage, collards, kale, kohlrabi, mustard greens, potatoes, spinach, tomatoes, tomato juice, turnip greens).
- 2) One ~~(1)~~ serving of a good source of Vitamin A at least three ~~(3)~~ times weekly (apricots, broccoli, cantaloupe, carrots, chard, collards, kale, persimmon, pumpkin, spinach, sweet potato, turnip greens and other dark green leaves, winter squash).
- 3) Other Fruits and Vegetables including Potatoes.
- 4) To insure variety, any vegetable or fruit repeated for the day shall not be counted as one of the four ~~(4)~~ servings required in this group.
- d) Bread and Cereal Group: Four ~~(4)~~ or more servings of whole grain, enriched or restored. One ~~(1)~~ slice of bread equals one ~~(1)~~ serving. One half ~~(1/2)~~ cup cooked cereal or three fourths ~~(3/4)~~ cup dry cereal equals one ~~(1)~~ serving.
- e) Butter or Margarine: Two ~~(2)~~ tablespoons or more to be used as a spread and in cooking.
- f) Other Foods: Serve other foods as necessary to round out meals, satisfy individual appetites, improve flavor, and meet the individual's nutritional and caloric needs. Snacks may also be used for this purpose.
- g) Meal Pattern: Foods for the day shall be planned to provide a variety of foods, variety in texture and good color balance to give "eye appeal" to the meal. The following meal patterns shall be used.

## 1) Three Meals A Day Plan

- A) Breakfast: Fruit or Juice, Cereal, Meat (optional, but

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## Section 350.1850(g)(1)(A) (continued)

three or four times per week preferable), Bread, Butter or Margarine, Milk, and Choice of additional Beverage.

- B) Main Meal (May be served noon or evening): Soup or Juice (Optional), appetizer (May be served), Entree (quality protein), Potato or potato substitute, Vegetable -and/or-- or Salad, Dessert (Preferably fruit unless fruit is served as a salad or will be served at other meal ~~lunch or supper~~) ~~1~~ Bread, Butter or Margarine, and Choice of Beverage.
- C) Lunch or Supper: Soup or Juice (Optional), Entree (quality protein), Potato or potato substitute (Optional if served at main meal), Vegetable ~~and/or~~ or Salad, Dessert, Bread, Butter or Margarine, Milk, and Choice of additional Beverage.
- 2) Four Meals A Day Plan
  - A) Breakfast (7:00 or 7:30 A.M.): Juice, Cereal, Toast or Roll, Butter or Margarine, Milk, and Choice of additional Beverage.
  - B) Brunch (10:00 or 10:30 A.M.): Fruit or Juice; Main Dish (quality protein); Bread, Rolls or Special Breads (such as French Toast, or Pancakes); Butter or Margarine; and Choice of Beverage.
  - C) Full Dinner (4:00 or 4:30 P.M.): Appetizer or Soup, Protein Entree, Potato or Potato Substitute, Vegetable, Salad, Dessert, Bread or Roll, Butter or Margarine, Milk, and Choice of additional Beverage.
  - D) Snack (7:00 or 7:30 P.M.): Sandwich (Meat Group Filling), Light Dessert, and Milk or Juice.
- 3) Five Meals A Day Plan
  - A) Continental Breakfast (7:00 or 7:30 A.M.): Fruit, Juice, Toast or Roll, Butter or Margarine, Milk, and Choice of additional Beverage.
  - B) Brunch (10:00 or 10:30 A.M.): Fruit or Juice, Cereal, Eggs ~~and/or~~ or Meat Dish, Bread or Muffin or Special Toast, Butter or Margarine, and Beverage.

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- C) Snack (1:00 or 1:30 P.M.): Soup with Crackers; Small Sandwich (with Meat Group Filling or Cheese), or Peanut Butter and Crackers; and Milk or Beverage.
- D) Dinner (4:00 or 4:30 P.M.): Meat, Fish or Poultry; Potato or Potato Substitute; Vegetable; Salad; Bread or Roll; Butter or Margarine; Dessert; Milk; and Choice of additional Beverage.
- E) Snack (7:00 or 7:30 P.M.): Small Sandwich with Meat Group Filling, Fruit Juice or Milk, and Dessert (such as Ice Cream, Cookies, Jello, Pudding, Custard, or Fruit).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1860 Therapeutic Diets

- a) A therapeutic diet order (see Section 350.1840 (a) and (b)) shall include, but is not limited to, the following information: name of resident, room ~~and/or~~ and bed number, type of diet, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department. ~~(C)~~
- b) Medically prescribed diets shall be recorded in the resident's medical record and served as ordered. The resident shall be observed to determine acceptance of the diet and these observations shall be recorded in his record. (B-~~C~~-G)
- c) The kinds and variations of these prescribed therapeutic diets shall be available in the kitchen. If separate menus are not planned for each specific diet, diet information for each specific type shall be posted in the kitchen. ~~(C)~~
- d) All oral therapeutic diets, with the exception of liquid and medical soft diets, shall be reviewed at least every three ~~(3)~~ months. Liquid diets shall be reviewed every ~~forty-eight (48)~~ hours; medical soft diets shall be reviewed every three ~~(3)~~ weeks. This review may be done by nursing personnel with recommendations to the attending physician. (B-~~C~~-G)
- e) The facility shall have available, and in use, two ~~(2)~~ or more copies of a current diet manual approved by the Department. One ~~(1)~~ copy shall be located in the kitchen for use by dietary

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## Section 350.1860(e) (continued)

personnel; other copies shall be located at each nurses' station for available use by the physician when prescribing diets. ~~(C)~~

- f) All special diets or dietary restrictions shall be medically prescribed and shall be planned or approved by a dietitian or nutritionist.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1870 Scheduling Meals

- a) A minimum of three ~~(3)~~ meals or their equivalent shall be served daily at regular times with no more than a ~~fourteen (14)~~ hour span between a substantial evening meal and breakfast. The ~~fourteen (14)~~ hour span shall not apply to facilities using the "four or five meals-a-day" plan, provided the evening meal is substantial and includes, but is not limited to, a good quality protein, bread or bread substitute, butter or margarine, a dessert and a nourishing beverage. (B-~~C~~-G)
  - b) Between meals ~~and/or~~ or bedtime snacks of nourishing quality shall be offered. (B)
  - c) If a resident refuses food served, reasonable and nutritionally appropriate substitutions shall be served. (B-~~C~~-G)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.1880 Menu Planning

- a) Menus, including menus for snacks and "sack" lunches, shall be planned at least one ~~(1)~~ week in advance. Food sufficient to meet the nutritional needs of all the residents shall be prepared for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value and shall be recorded on the original menu, or in a notebook marked "Substitutions" that is kept in the kitchen. If a notebook is used to document substitutions, it shall include the date of the substitution ~~(C)~~; the meal at which the substitution ~~(C)~~ was ~~made~~ made; the menu as originally written; and the menu as actually served. (B-~~C~~-G)
- b) The menu for the current week shall be dated and posted. Upon the request of the Department, sample menus shall be submitted for



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## Section 350.1880(b) (continued)

evaluation. ~~(C)~~

- c) Menus shall be different for the same day of consecutive weeks. ~~(C)~~
- d) All menus as actually served shall be kept on file for not less than ~~thirty (30)~~ days. ~~(C)~~
- e) Supplies of staple food for a minimum of a one ~~(1)~~ week period and of perishable foods for a minimum of a two ~~(2)~~ day period shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu. ~~(C)~~
- f) Records of all food purchased shall be kept on file for not less than ~~thirty (30)~~ days. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.1890 Food Preparation and Service

- a) Food shall be prepared by appropriate methods that will conserve their nutritive value, enhance their flavor and appearance. They shall be prepared according to standardized recipes and a file of such recipes shall be available for the cook's use. ~~(C)~~
- b) Foods shall be attractively served at the proper temperatures and in a form to meet individual needs. ~~(B, C)~~
- c) All residents shall be served in a dining room or a multipurpose room except for an individual with a temporary illness, who is too ill, or for other valid reasons. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.1900 Food Handling Sanitation

Every facility shall comply with the ~~latest edition of the~~ Department's rules entitled "Food Service Sanitation" (77 Ill. Adm. Code 750) ~~Rules and Regulations~~.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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## Section 350.1910 Kitchen Equipment, Utensils, and Supplies

The kitchen or dietary area shall be adequate to meet the food service needs. It shall have adequate equipment, utensils, and supplies to properly store, prepare, and serve the required number of meals in accordance with the ~~latest edition of the~~ Department's rules entitled "Food Service Sanitation" ~~Rules~~ (77 Ill. Adm. Code 750). This shall include, but is not limited to, the following: ~~(B, C)~~

- a) Each kitchen and floor pantry, or subkitchen, in each building shall be equipped with facilities to: maintain required food temperatures during storage, preparation and service; provide protection of cooking equipment and utensils from contamination; and prepare the planned meals. New or replacement equipment shall be of satisfactory institutional type based on generally accepted standards. ~~(C)~~
- b) There shall be an adequate supply of food preparation equipment such as pots, pans, spoons, knives, and mixers, ~~etc.~~ of the proper type to satisfactorily prepare the meals. ~~(C)~~
- c) There shall be proper equipment to maintain food temperatures during service to residents. This equipment may be in the form of heated food carts, insulated food containers, or suitable equivalent. ~~(B, C)~~
- d) Each facility shall provide an adequate number of dishes, glassware, and silverware of a satisfactory type to serve all the residents in the facility at each meal. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART J: MAINTENANCE HOUSEKEEPING AND LAUNDRY

## Section 350.2010 Maintenance

- a) Every facility shall have an effective written plan for maintenance, including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: ~~(B, C)~~
- 1) Maintain the building in good repair and free of the following: cracks in floors, walls, or ceilings; peeling wallpaper or paint; warped or loose boards; warped, broken, loose, or cracked floor covering, such as tile or linoleum; loose handrails or railings; loose or broken window panes; and any other similar hazards. ~~(B, C)~~

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## Section 350.2010(a) (continued)

- 2) Maintain all electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems in safe, clean and functioning condition. This shall include regular inspections of these systems. (A, B ~~---G---~~)
- 3) Maintain all electrical cords and appliances in a safe and functioning condition. (B ~~---G---~~)
- 4) Maintain the interior and exterior finishes of the building as needed to keep it attractive and clean and safe (painting and washing ~~---etc---~~). ~~---G---~~
- 5) Maintain all furniture and furnishings in a clean, attractive, and safely repaired condition. ~~---G---~~
- 6) Maintain the grounds and other buildings on the grounds in a safe, sanitary and presentable condition. (B ~~---G---~~)
- 7) Maintain the grounds free from refuse, litter, insect and rodent breeding areas. ~~---G---~~
- 8) The building and grounds shall be kept free of any possible infestations of insects and rodents by: eliminating sites of breeding and harborage inside and outside the building; eliminating sites of entry into the building with screens of not less than ~~sixteen~~ ~~---16---~~ mesh to the inch and repair of any breaks in construction. (B ~~---G---~~)
- b) Maintain all plumbing fixtures and piping in good repair and properly functioning. Protect the potable water supply from contamination by providing and properly installing adequate, backflow protection devices or providing adequate air gaps on all fixtures that may be subject to backflow or back siphonage.

(Source: Amended at 13 Ill. Reg. ~~---~~, effective ~~---~~)

## Section 350.2020 Housekeeping

- a) Every facility shall have an effective plan for housekeeping including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: (B ~~---G---~~)
- 1) Keep the building in a clean, safe, and orderly condition. This includes all rooms, corridors, attics, basements, and storage

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## Section 350.2020(a)(1) (continued)

- areas. (B ~~---G---~~)
  - 2) Keep floors clean and as non-slip as possible. Throw rugs ~~---etc---~~ or scatter rugs with non-slip type backings may be utilized if they do not constitute a serious tripping hazard. ~~---G---~~
  - 3) Control odors within the housekeeping staff's areas of responsibility by effective cleaning procedures and by the proper use of ventilation systems. Deodorants shall not be used to cover up persistent odors caused by unsanitary conditions or poor housekeeping practices. ~~---G---~~
  - b) Attics, basements, stairways, and similar areas shall be kept free of accumulations of refuse, discarded furniture, old newspapers, boxes, discarded equipment, and other items. (B ~~---G---~~)
  - c) Bathtubs, shower stalls, ~~and/or~~ and lavatories shall not be used for laundering, janitorial, or storage purposes. ~~---G---~~
  - d) All cleaning compounds, insecticides, and all other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms. (B ~~---G---~~)
- (Source: Amended at 13 Ill. Reg. ~~---~~, effective ~~---~~)

## Section 350.2030 Laundry Services

- a) Every facility shall have an effective means of supplying an adequate amount of clean linen for operation, either thru an in-house laundry or a contract with an outside service.
- 1) An adequate supply of clean linen shall be defined as the three sets of sheets, draw sheets, and pillow cases ~~---etc---~~ required to provide for the residents needs. Additional changes of linen may be required in consideration of laundering and transporting soiled linens. ~~---G---~~ If an in-house laundry service is provided then the following conditions shall exist:
- 2) The laundry area shall be maintained and operated in a clean, safe and sanitary manner. ~~---G---~~
- 3) Written operating procedures shall be developed, posted and implemented which provide for the handling, transport and



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## Section 350.2030(a)(3) (continued)

storage of clean and soiled linens. ~~(C)~~

- 4) Laundry personnel must be in good health and practice good personal grooming. Employees must thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean and after smoking, eating, drinking, using the toilet and handling soiled linens. ~~(C)~~
- 5) Clean linen shall be protected from contamination during handling, transport and storage. ~~(C)~~
- 6) Soiled linen shall be handled, transported and stored in a manner that protects facility residents and personnel. ~~(C)~~
- 7) The laundry and its accessory storage and handling areas shall not be used as a storage area for supplies not directly connected with the operation of the laundry. ~~(C)~~
- b) If an outside laundry service is used, it shall comply with the requirements of in-house laundries and, in addition, shall provide for protection of clean linens during transport back to the facility. ~~(C)~~
- c) If the facility provides laundry service for residents' personal clothing, it must be handled, transported and stored in a manner that will not allow contamination of clean linen or allow contamination by soiled linen. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

## Section 350.2210 Furnishings

- a) Each resident shall be provided with a separate bed suitable to meet the needs of the resident. Each bed shall be at least ~~36~~ inches wide, have a headboard, be of sturdy construction and in good repair. A double bed shall be provided for married couples if they request this arrangement, and there are no medical contraindications. Double beds shall be provided for married couples at their request. ~~(C)~~
- b) Each bed shall be provided with satisfactory type springs in good

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## Section 350.2210(b) (continued)

repair and a clean, firm, comfortable mattress of appropriate size for the bed. ~~(C)~~

- c) Each bedroom shall have window shades, or equivalent, in good repair. ~~(C)~~
- d) A satisfactory reading lamp, or equivalent, shall be provided for each bed. ~~(C)~~
- e) Each bed shall be provided with a minimum of one ~~(1)~~ clean, comfortable pillow. ~~(C)~~ There shall be additional pillows available in the home to satisfactory serve the needs of the residents. ~~(C)~~
- f) Each bedroom shall be provided with a mirror, unless there is a mirror in a bathroom opening into this bedroom. Each lavatory shall be provided with a mirror. ~~(C)~~
- g) Each living room for residents' use shall be provided with an adequate number of reading lamps, tables, and chairs or settees. These furnishings shall be well constructed and of satisfactory design for the residents. ~~(C)~~
- h) Dining room furnishings shall be provided for each resident which are well constructed, comfortable, in good repair, and of satisfactory design for the residents. There shall be a sufficient number of tables, of a type that can be used by wheelchair residents, to accommodate all such residents in the facility. ~~(C)~~
- i) Office spaces, nurses' stations, treatment rooms, and other areas shall be satisfactorily furnished with desks, chairs, lamps, cabinets, benches, work tables, ~~and/or~~ and other furnishings essential to the proper use of the area. ~~(C)~~
- j) For each bed there shall be furnished:
  - 1) A minimum of two ~~(2)~~ adequately sized dresser drawers. ~~(C)~~
  - 2) A comfortable chair. ~~(C)~~
  - 3) An individual towel rack. ~~(C)~~
  - 4) A satisfactory reading light over, or at the side of, the bed. ~~(C)~~

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- 5) Adequate closet, locker, or wardrobe space for hanging clothing within the room. ~~(C)~~

- 6) A satisfactory bedside cabinet or table. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2220 Equipment and Supplies

- a) The facility shall have a supply of thermometers, emesis basins, ice bags, hot water bottles or equivalent, bedpans, urinals, and sets of enema equipment sufficient to meet the needs of its residents. ~~(B-C)~~

- b) There shall be at least one ~~(1)~~ ~~(50)~~ bedside screen available in the facility for each ~~five~~ ~~(50)~~ beds or major fraction thereof in multiple bedrooms to provide residents' privacy when needed. ~~(C)~~

- c) There shall be a sufficient supply of linen and bedding in good condition to provide proper care and comfort to the residents. ~~(B-C)~~

- d) There shall be a first-aid kit or emergency box in every facility. This shall contain bandages, sterile gauze dressing, bandage scissors, tape, sling, burn ointment, and other equipment deemed necessary by the advisory physician or the medical advisory committee. ~~(B-C)~~

- e) Activity program supplies shall be provided to maintain an ongoing program to meet the varied interests and needs of the residents. These shall include, but are not limited to, age-appropriate games, craft supplies, current magazines, books, radio, television, and record player. A piano or organ is recommended as an important adjunct to the activity program equipment. ~~(C)~~

- f) Dishes and kitchen equipment shall be provided set forth in Section 350.1900 and 350.1910. ~~(C)~~

- g) Cleaning equipment and supplies shall be provided as set forth in Subpart J Maintenance, Housekeeping and Laundry. ~~(C)~~

- h) There shall be special equipment, implements, or utensils provided to residents as needed to assist them when eating. ~~(B-C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

## Section 350.2410 Codes

Water supply, sewage disposal and plumbing systems shall comply with the all applicable State and local codes and ordinances. ~~(B-C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2420 Water Supply

- a) Each facility shall be served by water from a municipal public water supply when available. ~~(B-C)~~

- b) When a municipal water supply is not available, the water supply shall comply with the Department's rules ~~for~~ ~~as amended~~ entitled "Drinking Water Systems" (77 Ill. Adm. Code 900) ~~as amended~~. ~~(B-C)~~

- c) If water is supplied by a well that is not part of a municipal system, the well shall be constructed and maintained in accordance with the Department's rules entitled "Illinois Water Well Construction Code" (77 Ill. Adm. Code 920) and "Water Well Pump Installation Code" (77 Ill. Adm. Code 925).

- d) Each facility shall have a written agreement with a water company, dairy, or other water purveyor to provide an emergency supply of potable water for drinking and culinary purposes.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2430 Sewage Disposal

- a) All sewage and liquid wastes shall be discharged into a public sewage system when available. ~~(B-C)~~

- b) When a public sewage system is not available, sewage and liquid wastes shall be collected, treated, and disposed of in a private sewage disposal system. The design, construction, maintenance, and operation of the system shall comply with the Department's rules entitled "Private Sewage Disposal Code" (77 Ill. Adm. Code 905) ~~as amended~~. ~~(B-C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 350.2440 Plumbing

Each plumbing system shall comply with the Department's rules entitled "Illinois ~~State~~ Plumbing Code" ~~and the Illinois Plumbing Code~~ (77 Ill. Adm. Code 890) effective at the time of construction ~~and/or~~ or approved acceptance by the Department.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

## Section 350.2610 Applicability of These Standards

- a) These standards shall apply to all new Long-Term Care Facilities and major alterations and additions to existing Long-Term Care Facilities. (Major alterations are those that are not defined as minor alterations in Section 350.2610(f) of this Part ~~herein~~.) Long-Term Care Facilities contemplating construction shall contact the Health Facilities Planning Board for information concerning the current requirements. Projects for which working drawings and specifications have received final approval by the Department prior to the promulgation of these Standards are subject only to those Standards that were in effect at the time that the final approval was given.

- b) When construction is contemplated, either for new buildings or additions or major alterations to existing buildings coming within the scope of these standards, design development drawings and outline specifications shall be submitted to the Department for review. Approval of design development drawings and specifications shall be obtained from the Department prior to starting final working drawings and specifications. Comments or approval will be provided within ~~thirty (30)~~ days of receipt by the Department. ~~(G)~~

- c) The final working drawings and specifications shall be submitted to the Department for review and approval prior to beginning of construction. For final approval to remain valid, contracts must be signed within one ~~(1)~~ year of the date of final approval. Alternate methods of design development and construction such as fast track may be acceptable subject to the approval of the Department. Comments of approval will be provided within ~~thirty (30)~~ days of receipt by the Department. ~~(G)~~

- d) Any contract modifications which affect or change the function, design, or purpose of a facility shall be submitted to the Department

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for approval prior to authorizing the modifications. Comments or approval will be provided within ~~thirty (30)~~ days of receipt by the Department. ~~(G)~~

- e) The Department shall be notified at least ~~thirty (30)~~ days before construction has been completed. The Department will then complete a final inspection. Deficiencies noted during the final inspection must be completed before occupancy will be allowed. ~~(G)~~
- f) Minor alterations or remodeling changes which do not affect the structural integrity of the building, which do not change functional operation, which do not affect fire safety, and which do not add beds or facilities over those for which the Long-Term Care Facility is licensed need not be submitted for drawing approval. However, the Health Facilities Planning Board requirements must be met for all alterations and remodeling projects. ~~(G)~~
- g) No system of water supply, plumbing, sewage, garbage or refuse disposal shall be installed, nor any such existing system materially altered or extended until complete plans and specifications for the installation, alteration or extension have been submitted to the Department and have been reviewed and approved. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2620 Codes and Standards

- a) Each facility shall comply with the applicable provisions of the following codes and standards. Any incorporation by reference in this Section of the rules or regulations of any Agency of the United States or of any standards of a nationally recognized organization or association includes no new amendments or editions made after the date specified. (A, B, ~~G~~)

- 1) State of Illinois rules ~~codes and standards~~

A) Illinois ~~Ill.~~ State ~~Plumbing Code (4983)~~ (77 Ill. Adm. Code 890), Department of Public Health ~~Environmental Health Protection~~

B) Illinois Accessibility Code ~~Standards Illustrated (March 1981)~~ (71 Ill. Adm. Code 400), Capital Development Board

C) ~~Rules for~~ Fire Prevention and Safety ~~(September 1983)~~

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## Section 350.2620(a)(1) (continued)

- (41 Ill. Adm. Code 100) Office of the State Fire Marshal
- D) ~~Rules for Food Service Sanitation (1993) (77 Ill. Adm. Code 750) Department of Public Health Environmental Health Protection~~
- E) ~~An Act to regulate the construction, installation, repair, use and operation of boilers and pressure vessels and to create a Board of Boiler and Pressure Vessel Rules (Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 3201 et seq.) and Boiler and Pressure Vessel Safety Rules (41 Ill. Adm. Code 120), Office of the State Fire Marshal Boiler and Pressure Vessel Safety~~
- ~~F) State of Illinois Safety Glazing Materials Act, (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 3101 et seq.)~~
- 2) Other codes and standards ~~references~~
- A) National Fire Protection Association
- i) NFPA 101 Life Safety Code 1981 Edition (New Health Care Occupancies - Residential-Custodial Care) and all appropriate references under Appendix "B", including but not limited to: ~~National Protection Association~~
  - ii) NFPA 10 - 1978, Standard for Portable Extinguishers
  - iii) NFPA 13 - 1980, Standards for the Installation of Sprinkler Systems
  - iv) NFPA 56F - 1977, Standard for Non-Flammable Medical Gas Systems
  - v) NFPA 70- 1981, National Electric Code
  - vi) NFPA 90A - 1978, Standards for the Installation of Air Conditioning and Ventilating Systems
  - vii) NFPA 96- 1980, Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment
  - viii) NFPA 220 - 1979, Standard Types of Building Construction

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## Section 350.2620(a)(2)(A) (continued)

- ix) NFPA 253 - 1978, Flooring Radiant Heat Energy Test
  - x) NFPA 255 - 1972, Test of Surface Burning Characteristics of Building Materials
- B) ~~Underwriters' Laboratory, Inc. (UL) Underwriters' Laboratories, Inc.~~
- i) Fire Resistance Index (All Editions)
  - ii) Building Material Directory (All Editions)
  - iii) Standard No. - 181-1974 Factory Made Air Duct Materials and Air Duct Connectors
- C) American Society for Testing and Materials (ASTM) ~~American Society for Testing and Materials~~
- i) Standard No. E-84-1977A, Method of Test for Surface Burning Characteristics of Building Materials (Same as NFPA 255)
  - ii) Standard No. E90-1975, Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions
- D) American Society of Heating, Refrigerating and Air Conditioning Conditioning Engineers (ASHRAE) ~~American Society of Heating, Refrigerating, and Air Conditioning~~
- i) Handbook of Fundamentals, 1977
  - ii) Standard No. 52-76, Methods of Testing Air Cleaning Devices Used in General Ventilation for Removing Particulate Matters
- E) Uniform Building Code (1982 Edition), International Conference of Building Officials
- F) Standard No. A17.1-1971, American Standards Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped American National Standards Institute
- G) Standard No. A17.1-1971, American National Safety Code for



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## Section 350.2620(a)(2)(G) (continued)

Elevators, Dumbwaiters, Escalators, and Moving Stairs

~~H) Public Health Service Publication No. 934 Food Service-Sanitation Manual Superintendent of Documents~~~~H) I) HUD FT/TS-24, A Guide to Air Borne, Impact and Structure Borne Noise-Control in Multi-Family Dwellings~~

b) In addition to compliance with the Standards set forth herein, all building codes, ordinances and regulations which are enforced by city, county, or other local jurisdictions in which the facility is, or will be located must be observed. (A, B, ~~C~~)

c) Where no local building code exists, the recommendations of the 1976 Edition of the Uniform Building Code shall apply. ~~(C)~~

d) The local building code or the recommendations of the 1982 Edition of the Uniform Building Code shall apply insofar as such recommendations are not in conflict with these standards set forth in these regulations, or with the National Fire Protection Association Code, Standard 101, Life Safety Code, (1981 Edition). ~~(C)~~

e) The Fire Safety Evaluation System for Health Occupancies (Appendix C) of the 1981 edition of the Life Safety Code (NFPA 101) shall be used by the Department in determining whether any facility's proposed equivalent system is safe and does not constitute a hazard to the life and safety of the staff and residents. In making its determination regarding the proposed equivalent system, the Department shall consider those factors listed in Appendix C.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2630 Preparation of Drawings and Specifications

a) The preparation of drawings and specifications shall be executed by or be under the immediate supervision of an architect registered in the State of Illinois. ~~(C)~~

b) The first submission shall be the design development drawings indicating in detail the assignment of all spaces, size or areas and rooms, and indicating in outline, the fixed and movable equipment and furniture. ~~(C)~~

c) The plans shall be drawn at a scale sufficiently large to clearly

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## Section 350.2630(c) (continued)

present the proposed design. ~~(C)~~

d) The drawing shall include:

- 1) a plan of each floor including the basement or ground floor, ~~(C)~~
- 2) roof plan, ~~(C)~~
- 3) plot plan showing roads, parking areas, and sidewalks, etc., ~~(C)~~
- 4) elevations of all facades, ~~(C)~~
- 5) sections through the building, ~~(C)~~
- 6) identification of all fire and smoke compartmentation. ~~(C)~~

e) Outline specifications shall provide a general description of the construction including finishes; acoustical material, floor covering; heating and ventilating systems; description of the electrical system including the emergency electrical system and the type of elevators. ~~(C)~~

f) The total gross floor area and bed count shall be shown on the drawings.

g) A brief narrative of the proposed program shall be submitted with the preliminary drawings and outline specifications. ~~(C)~~

h) Following approval of the design development drawings and specifications, working drawings and specifications shall be submitted. All working drawings shall be well prepared and clean and distinct prints submitted. Drawings shall be accurately dimensioned and include all necessary explanatory notes, schedules and legends. Working drawings shall be complete and adequate for contract purposes. Drawings shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical, Electrical and Plumbing. ~~(C)~~

1) The architectural drawings shall show:

- A) Site plan showing all topography, newly established levels and grades, existing structures on the site (if any), new buildings and structures, roadways, walks, and the extent

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Section 350.2630(h)(1)(A) (continued)

of the areas to be landscaped. All structures which are to be removed under the construction contract shall be shown. ~~(C)~~

- B) Plan of each floor and roof. ~~(C)~~
- C) Elevation of each facade. ~~(C)~~
- D) Sections through building. ~~(C)~~
- E) Elevators and dumbwaiters. Drawings delineating shaft details and dimensions, sizes of cab platforms and doors, travel distances including elevation height of landings, pit sizes, and machine rooms. ~~(C)~~
- F) Kitchen, laundry, clean and soiled utility room, special care areas, and similar areas shall be detailed at a scale to show the locations, type, size and connection of all fixed and movable equipment. ~~(C)~~
- G) Scale details as necessary; at a scale sufficiently large to properly indicate details of the work. ~~(C)~~
- H) Schedule of finishes. ~~(C)~~
- 2) The structural drawings shall show:
  - A) Plans of foundations, floors, roofs and all intermediate levels shall show the complete design with sizes, sections, and the relative location of the various members including: ~~(C)~~
  - B) Schedule of beams, girders and columns. ~~(C)~~
  - C) Notes on design data shall include the name of the governing building code, values of allowable unit stresses, assumed live loads, wind loads, earthquake load, and soil bearing pressures. ~~(C)~~
  - D) Details of special connections, openings, pipe sleeves and expansion joints. ~~(C)~~
  - E) Special structures shall include calculations defining load assumption, shear and moment diagrams and horizontal and vertical reactions. ~~(C)~~

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Section 350.2630(h) (continued)

- 3) Mechanical drawings with specifications shall show the complete heating, cooling and ventilation systems; plumbing, drainage, stand pipe, and sprinkler systems. ~~(C)~~
  - A) Heating, Cooling and Ventilation.
    - i) Pumps, tanks, boilers and piping and boiler room accessories. ~~(C)~~
    - ii) Air conditioning systems with required equipment, water and refrigerant piping, and ducts. ~~(C)~~
    - iii) Supply and exhaust ventilating systems with connections and piping. ~~(C)~~
    - iv) Air quantities for all rooms including supply and exhaust ventilating duct openings. ~~(C)~~
  - B) Plumbing, Drainage and Stand Pipe Systems.
    - i) Size and elevation of: street sewer, house sewer, house drains, street water main and water service into the building. ~~(C)~~
    - ii) Location and size of soil, waste, and vent stacks with connections to house drains, cleanouts, fixtures and equipment. ~~(C)~~
    - iii) Size and location of hot, cold and circulating mains, branches, and risers from the service entrance, and tanks. ~~(C)~~
    - iv) Riser diagram of all plumbing stacks with vents, water risers and fixture connections. ~~(C)~~
    - v) Fuel and similar piped systems. ~~(C)~~
    - vi) Stand pipe and sprinkler systems. ~~(C)~~
    - vii) All fixtures and equipment that require water and drain connections. ~~(C)~~
- 4) Electrical drawings shall show all electrical wiring, outlets, and equipment which require electrical connections.



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## Section 350.2630(h)(4) (continued)

- A) Electrical service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections. ~~(C)~~
- B) Location of main switchboard, power panels, light panels and equipment. Feeder and conduit sizes shall be shown with schedule of feeder breakers or switches. ~~(C)~~
- C) Light outlets, receptacles, switches, power outlets, and circuits. ~~(C)~~
- D) Telephone layout showing service entrance, telephone switchboard, strip boxes, telephone outlets and branch conduits as approved by the telephone company. Where public telephones are used for inter-communication, provide separate room and conduits for racks and automatic switching equipment as required by the telephone company. ~~(C)~~
- E) Fire alarm system with stations, signal devices, control board and wiring diagrams. ~~(C)~~
- F) Emergency electrical system with outlets, transfer switch, source of supply, feeders, and circuits. ~~(C)~~
- G) All other electrically operated systems and equipment. ~~(C)~~

5) When the project is an addition, details and information on the existing building shall be provided as follows:

- A) Type of activities within the existing building and distribution of existing beds. ~~(C)~~
- B) Type of construction of existing building and number of stories in height. ~~(C)~~
- C) Plans and details showing attachment of new construction to the existing structure. ~~(C)~~
- D) Mechanical and Electrical systems showing connections to the existing system. ~~(C)~~
- E) The Department may require submission of drawings of all or

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## Section 350.2630(h)(5)(E) (continued)

- any part of the existing structure. ~~(C)~~
- 6) Specifications shall supplement the drawings and shall: Describe, except where fully indicated and described on the drawings, the materials, workmanship, kind, sizes, capacities, finishes, and other characteristics of all materials, products, articles and devices. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.2640 Site

- a) The facility shall be located on a reasonably flat or rolling, well drained site that is not subject to flooding; reasonably free from sources of excessive noise, noxious or hazardous smoke or fumes; not in deteriorated, unpleasant, or potentially hazardous area; and not near uncontrolled sources of insect and rodent breeding. ~~(C)~~
- b) The facility shall be located so that the building or buildings can comply with all applicable local zoning ordinances, building restrictions and fire safety requirements. The Department may have additional requirements if the proposed locations of the building or buildings on the site would result in a hazard to or be detrimental to the health, welfare, or safety of the residents in the facility. ~~(C)~~
- c) The facility shall be located in or near a community which can provide the necessary supportive services for the home such as physician's services, social services, transportation, recreation, religious services, work, medical facilities, public utilities, or other acceptable substitutes; and be located on a well-maintained, all-weather road. In those instances where the community does not provide these services, the facility shall do so. ~~(C)~~
- d) The facility shall be served by a potable water supply with water pressure and volume that is acceptable to the Department. ~~(B)(C)~~
- e) The distance from the fire station, the accessibility of the facility, and capability of the fire department must be approved in writing by the Office of the State Fire Marshal. ~~(B)(C)~~
- f) The facility shall have at least one ~~(1)~~ municipal or private fire hydrant, located within ~~three hundred~~ ~~(300)~~ feet of every point on the perimeter of the building and satisfactory for use by the

## Section 350.2640(f) (continued)

equipment of the fire department serving the building, or have an acceptable equivalent. Additional hydrants may be required if needed to properly protect the residents from fire hazards. Evaluation and written approval must be obtained from the Office of the State Fire Marshal. (B-~~6~~-~~6~~)

- g) Plans showing the proposed building location must be submitted to the Illinois Department of Transportation, Division of Water Resources to determine compliance with Regulation of Construction within the State Flood Plain (92 Ill. Adm. Code 706) and Executive Order 79-4(c).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2650 Administration and Public Areas

- a) Facilities for the physically handicapped (public, staff and residents) shall be provided in administration and public areas as well as in resident areas. ~~(C)~~
- b) Lobby shall include a reception and information counter or desk, waiting space~~(s)~~ and public telephones. See Illinois State Plumbing Code for drinking fountain~~(s)~~ and toilet facilities requirements for staff and visitors. ~~(C)~~
- c) General or Individual Office~~(s)~~ shall have sufficient space to accommodate the following functions: Administrative, Business/Financial Transactions, Professional Staff (Food Service Supervisor, Activity Director, and Social Service Director~~, etc.~~), and Professional Consultants (Dietitian and Social Worker~~, etc.~~). ~~(C)~~
- d) Multipurpose room~~(s)~~ shall be provided for conferences, meetings, interviews, and educational purposes. ~~(C)~~
- e) Provide adequate space for recording, reviewing and storing resident records. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2660 Nursing Unit

- a) The number of resident beds in a nursing unit shall not exceed ~~seventy-five (75)~~ beds. ~~Sixty (60)~~ percent of the

## Section 350.2660(a) (continued)

resident beds shall be in one ~~(1)~~ or two ~~(2)~~ bedrooms. ~~(C)~~

b) ~~Bedrooms~~ General Requirements for Bedrooms

- 1) Resident bedrooms shall have an entrance directly off a corridor with an entrance door which swings into the room. ~~(C)~~
- 2) Resident bedrooms shall have adequate and satisfactory artificial light and be equipped in accordance with Sections 350.2740(d) and (c).
- 3) Residents shall have access to a toilet room without entering the general corridor area. ~~(C)~~
- 4) Provide a closet or wardrobe of at least six ~~(6)~~ square feet for each resident. ~~(C)~~
- 5) Resident bedroom floor shall be at or above grade level. ~~(C)~~
- 6) Each room used as a resident bedroom shall have at least one ~~(1)~~ outside window, and a total window area to the outside equal to at least one-tenth ~~(1/10)~~ the floor area of the room. ~~(C)~~
- 7) No resident bedroom shall be located more than ~~one hundred~~ ~~(100)~~ ~~(120)~~ feet from the nurses' station, clean utility room, and soiled utility room. ~~(C)~~

c) Resident Bedrooms

- 1) Single resident bedroom shall contain at least ~~one hundred~~ ~~(100)~~ square feet. Multiple resident bedrooms shall contain at least ~~eighty (80)~~ square feet per bed. Minimum usable floor area shall be exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, vestibules, or clearly definable entryways. ~~(C)~~
- 2) Multiple resident bedrooms shall not have more than four ~~(4)~~ beds nor more than three ~~(3)~~ beds deep from an outside wall. All beds shall have a minimum clearance of three ~~(3)~~ feet at the foot and sides of the bed. ~~(C)~~

d) Special Care Room

- 1) Provide a special care room for each ~~one hundred fifty~~



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## Section 350.2660(d)(1) (continued)

- ~~(150)~~ beds. ~~(6)~~
- 2) Provide this room with a private toilet room containing water closet, lavatory, bathtub or shower and all other necessary facilities to meet the resident's needs. ~~(6)~~
  - 3) This room shall be located to allow direct visual supervision from the nurses' station. ~~(6)~~
  - 4) The room may be included in the authorized maximum bed capacity for the facility. It is permissible for the room to be occupied by a resident, not in need of special care, provided the resident is clearly informed and understands he will be immediately transferred out of the room any time of day or night, whenever the room is needed to care for a resident requiring special care. ~~(6)~~
- e) Nurses' Station
- 1) Provide a minimum of one ~~(1)~~ station per floor with direct access to the corridor for each nursing unit. The location of this station shall allow visual control of each resident room served without the use of mirrors. Separation shall be provided from the utility rooms. ~~(B-6)~~
  - 2) Nurses' station shall provide space for charting and storage for administrative supplies; ~~(B-6)~~
  - 3) A lounge with toilet room shall be provided near each station for nursing staff. Lockers for safekeeping of coats and personal effects may be provided within this space or in a convenient central location. ~~(B-6)~~

## f) Bath and Toilet Rooms

- 1) The resident bedroom toilet room shall serve no more than two ~~(2)~~ resident rooms nor more than eight ~~(8)~~ beds. The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from the toilet room when the resident room contains a lavatory. ~~(6)~~
- 2) Provide one ~~(1)~~ wheelchair resident toilet room for each sex residing in nursing unit. The room shall be accessible from the corridor. This room shall contain a water closet and lavatory. ~~(6)~~

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## Section 350.2660(f) (continued)

- 3) Wheelchair resident toilet room ~~(5)~~ are not required when all resident toilet rooms can accommodate wheelchair residents.
  - 4) Provide one ~~(1)~~ training toilet room on each nursing floor, that is accessible from the corridor. Provide three ~~(3)~~ foot clearance at the front and both sides of the water closet. This room shall contain a lavatory accessible for wheelchair use. ~~(6)~~
  - 5) Provide one ~~(1)~~ bathtub or shower for each ten ~~(10)~~ resident beds per nursing unit which are not served by bathing or showering facilities in resident room. ~~(6)~~
  - 6) All shower stalls for residents not needing assistance shall be at least three ~~(3)~~ feet square and shall have no curb. ~~(6)~~
  - 7) Provide at least one ~~(1)~~ bathtub for assisted bathing per nursing unit. There shall be a clear area at least three ~~(3)~~ feet wide at both sides and one end of the tub. ~~(6)~~
  - 8) Provide at least one ~~(1)~~ shower stall for assisted showering per nursing unit. The shower stall shall be at least four ~~(4)~~ feet square with no curb. ~~(6)~~
  - 9) Provide a toilet room with a water closet and lavatory, accessible to the assisted bathtub and shower without entering the general corridor. This room may be arranged to serve as the training toilet facility. ~~(6)~~
  - 10) Grouped bathing and toilet facilities shall be partitioned or curtained for privacy. ~~(6)~~
- g) Utility Rooms
- 1) Clean utility room shall have direct access to a corridor or access may be through the nurses' station entrance. This room shall contain work counters, single or double compartment sink with integral drainboard, storage cabinets, and an autoclave. (Autoclave may be waived in lieu of other methods if sterilization is approved by Department.) ~~(6)~~
  - 2) Clean linen storage room or closet within the clean utility room shall be provided. If a closed cart system is used, storage may be in an alcove. ~~(6)~~

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## Section 350.2660(g) (continued)

- 3) Soiled utility room shall have direct access to a corridor. This room shall contain work counters, double compartment sink with integral drainboard, storage cabinets, a clinical rim flush sink, and sanitizer (See Section 350.2730(c)). ~~(G)~~
- 4) The charging room for a linen chute shall be large enough to unload the collecting cart with the door closed. ~~(G)~~
- h) Medicine station shall be provided for convenient and prompt ~~twenty-four (24)~~ hour distribution of medicine to residents. The medicine station shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. Provision for handwashing and medication purposes shall be provided in the medicine station. ~~(G)~~
- i) Nourishment station shall be provided with a handwashing sink and equipment including refrigerator, and storage cabinets for serving nourishment between scheduled meals. Ice for residents' use shall be provided only by icemaker dispenser units. ~~(G)~~
- j) Room for examination and treatment of residents shall be provided and shall have a minimum floor area of ~~one hundred (100)~~ square feet, excluding space for vestibule, closets and work counters (whether fixed or movable). The minimum room dimension shall be ten feet ~~(10-0)~~. The room shall contain a lavatory or sink equipped for handwashing; a work counter; storage facilities; and a desk, counter, or shelf space for writing. ~~(G)~~
- k) Equipment storage rooms shall be provided for storage of equipment such as I.V. stands, inhalators, air mattresses, walkers, and wheelchairs ~~and etc.~~ ~~(G)~~
- l) Parking space for wheelchairs shall be provided and located out of path of normal traffic. ~~(G)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 350.2670 Dining, Living, Activities Room ~~(G)~~

- a) The combined area of these rooms shall not be less than ~~forty~~ ~~(40)~~ square feet per resident bed. ~~(G)~~
- b) Provide a minimum of one ~~(1)~~ dining room with at least ten ~~(10)~~ square feet per resident bed. ~~(G)~~

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## Section 350.2670 (continued)

- c) Provide a minimum of one ~~(1)~~ comfortably furnished living room on each floor in multiple story buildings having a total window area of at least one-tenth ~~(1/10)~~ the floor area. ~~(G)~~
- d) Provide activities room based on program requirements. This room ~~(G)~~ may be combined with the living ~~and/or~~ or dining room. ~~(G)~~
- e) Locate these rooms so that they are not an entrance vestibule from the outside. ~~(G)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2680 Therapy and Personal Care

- a) Physical and occupational therapy facilities shall be provided as required by the approved program. ~~(G)~~
- b) A separate room shall be provided with appropriate equipment for hair care and grooming needs of the residents. ~~(G)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2690 Service Departments

- a) Dietary facilities shall comply with the standards specified in the ~~State of Illinois Rules and Regulations for~~ Department's rules entitled "Food Service Sanitation" (77 Ill. Adm. Code 750) ~~and the Food Service Sanitation Manual, Public Health Service No. 934.~~ Food service facilities shall be designed and equipped to meet the requirements of the Narrative Program. These may consist of an on-site conventional food preparing system, a convenience food service system, or an appropriate combination of the two. ~~(B-G)~~
- b) The kitchen consisting of food preparation, cooking, and serving areas, shall be approximately ten ~~(10)~~ square feet per resident bed with a minimum area of at least ~~two hundred (200)~~ square feet. It shall be properly located for efficient food service, and be large enough to accommodate the equipment and personnel needed to prepare and serve the number of meals required. ~~(B-G)~~
- c) The following facilities shall be provided as required to implement the type of food service selected:



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Section 350.2690(c) (continued)

- 1) A control station shall be provided for receiving food supplies. ~~(c)~~
- 2) Storage space shall be adequate to provide normal and emergency supply needs, approximately two and one-half ~~(2 1/2)~~ square feet per patient bed, for bulk and daily food storage, located in a room convenient to the kitchen. ~~(c)~~
- 3) Food Preparation Facilities: Conventional food preparation systems required space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, and individual packaged portions, or systems using contractual commissary service require space and equipment for thawing, portioning, heating, cooking, or baking. ~~(c)~~
- 4) Handwashing facility ~~(c)~~ shall be located in the food preparation area. ~~(c)~~
- 5) Residents' meal service facilities shall be provided as required for tray assembly and distribution. ~~(c)~~
- 6) Warewashing space shall be located in a room or an alcove separate from food preparation and serving areas. Commercial type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting, stacking and loading soiled tableware and for transferring clean tableware to the using areas. A handwashing lavatory shall be provided. ~~(B)(6)~~
- 7) Potwashing facilities shall be located conveniently for washing and sanitizing cooking utensils. ~~(B)(6)~~
- 8) Storage areas shall be provided for cans, carts, and mobile tray conveyors. ~~(c)~~
- 9) Waste storage facilities shall be located in a separate room easily accessible to the outside for direct pickup or disposal. ~~(c)~~
- 10) Office ~~(c)~~ or disk space ~~(c)~~ shall be provided for the dietitian ~~(c)~~ or the dietary service manager. ~~(c)~~
- 11) Toilets shall be accessible to the dietary staff. Handwashing facilities shall be immediately available. ~~(c)~~

Section 350.2690(c) (continued)

- 12) A janitors' closet for the exclusive use in food preparation areas shall be located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. ~~(c)~~
- 13) Self-dispensing icemaking facilities shall be provided. ~~(c)~~
- 14) Provide adequate can, cart and mobile tray washing facilities as required. ~~(c)~~
- d) Linen Service
  - 1) Provide a laundry room with commercial type equipment designed to meet the needs of the facility unless a commercial laundry service is used. ~~(c)~~
  - 2) The laundry facilities shall be designed to provide for the processing of linens from soiled linen receiving/sorting through washing, through drying, through clean linen inspection, folding and storage, maintaining a separation between soiled and clean functions. ~~(c)~~
  - 3) Provide for the storage of laundry supplies and carts. ~~(c)~~
  - 4) If washers and dryers are provided for personal use of residents, they shall be located in a room separate from the facility's laundry room ~~(c)~~. ~~(c)~~
- e) Housekeeping and Storage
  - 1) Sufficient janitor's closets shall be provided throughout the facility as required to maintain a clean and sanitary environment. Each shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. Space ~~(c)~~ for large housekeeping equipment and for back-up supplies may be centrally located. ~~(c)~~
  - 2) Provide a total area of approximately ten ~~(10)~~ square feet per resident bed for the storage areas designated in this service department. This does not include closets or wardrobes in residents' rooms. Separate storage space with provisions for locking and security control shall be provided for residents' personal effects which are not kept in residents' bedrooms. ~~(c)~~

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Section 350.2690(e) (continued)

- 3) Provide storage rooms for maintenance supplies and yard equipment ~~etc.~~ ~~(C)~~.

(Source: Amended at 13 Ill. Reg.           , effective           )

Section 350.2700 ~~Building~~ General Building Requirements

a) Elevators

- 1) Have a minimum of one ~~(1)~~            elevator in all buildings of two ~~(2)~~            or more stories in height. The basement shall be considered as one ~~(1)~~            story if it is used by residents. ~~(C)~~
- 2) If ~~eighty (80)~~            to ~~two hundred (200)~~            beds are located above the first floor, at least one ~~(1)~~            additional elevator shall be provided. ~~(C)~~
- 3) For facilities with more than ~~two hundred (200)~~            beds, the number of elevators shall be determined from a study of the use requirements and the estimated vertical transportation requirements.
- 4) A minimum of one ~~(1)~~            car shall be of institutional type having inside dimensions that will accommodate a stretcher and attendants and shall be at least five feet ~~(5'0")~~            by seven feet, six inches ~~(7'6")~~           . The car door shall have a clear opening of not less than three feet, eight inches ~~(3'8")~~           . ~~(C)~~
- 5) Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type. ~~(C)~~
- 6) Elevator controls, alarm buttons, and telephones shall be accessible to physically handicapped. Refer to Capital Development Board rules entitled "Illinois Accessibility Code" ~~Standards Illustrated~~            (71 Ill. Adm. Code 400). ~~(C)~~
- 7) Elevator call buttons, control and door safety stops shall be of a type that will not be activated by heat or smoke. (B)
- 8) Elevators, except freight elevators, shall be equipped with a two-way special service key operated switch to permit cars to bypass all landing button calls and be dispatched directly to

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Section 350.2700(a)(8) (continued)

- any floor. (B ~~(C)~~           )
- 9) Fireman's emergency operations shall be furnished in accordance with American National Standards Institute Standard A17.1 Elevator Safety Code. (B)
  - 10) Inspections and tests shall be made and written certification be furnished that the installation meets the requirements set forth in this section and all applicable safety regulations and codes. (B)
    - b) Handrails and Grab Bars
      - 1) Handrails shall be provided on both sides of all corridors and ramps used by residents. (B ~~(C)~~           )
      - 2) Handrails shall be provided on all sides of elevator cab not provided with a door. (B ~~(C)~~           )
      - 3) Handrails on stairs used by residents shall be provided on both sides of the stairs including the platforms and landings. (B)
      - 4) Handrail dimensions and detail shall conform to the ~~State of~~            rules of the Capital Development Board entitled "Illinois Accessibility Code" ~~Standards Illustrated~~            (71 Ill. Adm. Code 400). (B ~~(C)~~           )
      - 5) It is recommended that handrails be installed at a height of ~~thirty-two (32)~~            inches measured vertically from the floor surface.
      - 6) Grab bars shall be provided for all resident use toilets, showers, and tubs ~~etc.~~           . (B ~~(C)~~           )
      - 7) The ends of handrails and grab bars shall return to the wall. (B ~~(C)~~           )
    - c) Ceiling Heights
      - 1) All rooms occupied or used by residents shall have ceilings not less than eight ~~(8)~~            feet. ~~(C)~~
      - 2) Corridors, storage rooms, toilet rooms and other minor rooms shall have ceilings not less than seven ~~(7)~~            feet eight ~~(8)~~            inches. ~~(C)~~



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## Section 350.2700(c) (continued)

- 3) Suspended tracks, rails and pipes located in the path of traffic shall be not less than six ~~(6)~~ feet eight ~~(8)~~ inches above the floor. ~~(6)~~
- 4) Boiler room shall have ceiling clearances not less than two ~~(2)~~ feet six ~~(6)~~ inches above the main boiler header and connecting piping. ~~(6)~~
- d) Doors and Windows
  - 1) Main entrance and all exit doors shall swing outward and be provided with door closers and panic hardware. ~~(B-6)~~
  - 2) All exterior doors shall be equipped with a signal that will alert the staff if a patient leaves the building. Any exterior door that is supervised during certain periods may have a disconnect device for part-time use. If there is constant ~~twenty-four (24)~~ hour a day supervision of the door, a signal is not required. ~~(B-6)~~
  - 3) Locks installed on resident bedroom doors shall be so arranged that they can be quickly and easily unlocked from the corridor side. All such locks shall be arranged to permit exit from the room by a simple operation without the use of a key. The door may be lockable by the occupant if the door can be unlocked from the corridor side and keys are carried by staff at all times. ~~(B-6)~~
  - 4) Resident toilet rooms shall open directly into a corridor or into a resident bedroom. ~~(B-6)~~
  - 5) The doors for the toilet rooms used by residents shall have a minimum door width of three ~~(3)~~ feet. ~~(B-6)~~
  - 6) No toilet or bathroom door shall be provided with hardware which could allow a resident to become locked in the room. All toilet or bathroom doors and hardware shall be designed to permit emergency ingress to the room. ~~(B-6)~~
  - 7) Doors and windows shall fit snugly and be weather tight, yet open and close easily. ~~(6)~~
  - 8) Outside doors, other than required exits, and operable windows shall be equipped with tight-fitting,  ~~sixteen (16)~~ mesh screens. Screen doors shall be equipped with self-closing

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## Section 350.2700(d)(8) (continued)

- 9) All doors to resident sleeping rooms shall be provided with automatic closers actuated by smoke detectors in the resident room. The doors shall normally be free swinging in the open and close directions, and be designed so they will remain in any position except when they are actuated by the detector. They shall then close gently and shall latch when closed. When so actuated they shall automatically close again if opened manually. Each door shall be equipped with a light mounted on the wall adjacent to the door. The light shall illuminate if the door has been closed as a result of the actuation of the controlling smoke detector. Each door closer will be activated only when its own detector annunciates a fire. In addition, a centrally located monitor shall contain signals which identify the resident room in which the smoke detector has signaled the alarm. The system shall be wired into the fire alarm system. ~~(B-6)~~
- e) Floors
  - 1) Floors shall be smooth, free from cracks and finished so that they can be easily and properly cleaned. Floors shall be covered wall to wall with water resistant material in wet areas including but not limited to bathrooms, kitchen, utility rooms. ~~(B-6)~~
  - 2) Thresholds and expansion joints shall be flush with the floor to facilitate use of wheelchairs and carts. ~~(6)~~
- f) Mirrors shall be installed above all lavatories except handwashing lavatories in food preparation areas, or in clean and sterile supply areas or at nurses handwashing sink. ~~(6)~~
- g) Provide paper towel dispensers and waste receptacles or electric hand dryers at all lavatories. ~~(6)~~
- h) Rooms containing heat-producing equipment (such as boiler or heater rooms and laundry rooms) shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of ~~10~~ ~~ten~~ degrees Fahrenheit above the ambient room temperature. ~~(6)~~
- i) Sound Transmission Limitation
  - 1) Recreation rooms and exercise rooms, and similar spaces where

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## Section 350.2700(i)(1) (continued)

impact noises may be generated, shall not be located directly over resident bed areas unless special provisions are made to minimize such noise. ~~(C)~~

- 2) Sound transmission limitations shown in Table A shall apply to partitions, floors, and ceiling construction in resident areas. ~~(C)~~

- j) Materials used for wall and door construction shall be highly resistant to impact damage. ~~(C)~~

k) Interior Finishes, Fire Extinguishers and Miscellaneous

- 1) Interior finish flame spread ratings shall be in accordance with the National Fire Protection Association, Life Safety Code Standard 101, Standards for Flame Spread and Smoke Emission Ratings. (B)
- 2) There shall be at least one ~~(1)~~ approved fire extinguisher in all basements, furnace rooms, and kitchens, laundry rooms and beauty shops. In addition, there shall be on each floor of the building, extinguishers located so a person will not have to travel more than ~~fifty~~ 50 feet from any point to reach one. They shall be inspected annually and recharged when necessary. The date of checking and recharging shall be recorded on a tag attached to the extinguisher. (B~~(C)~~)
- 3) Approved containers with proper covers shall be provided for daily storage of rubbish. (B~~(C)~~)
- 4) Housekeeping throughout the building, including basements, attics, and unoccupied rooms shall be adequately performed to minimize all fire hazards. (B~~(C)~~)
- 5) Comply with any reasonable additional fire protection measures recommended by the Department over and above these requirements or the Office of the State Fire Marshal if conditions in and around building, including its location, indicate that such additional protection is needed. (B~~(C)~~)
- 1) Have no other business not related to health care conducted in the building that constitutes a hazard or annoyance to the residents. In any case, the business shall be in a segregated portion of the building and shall have a separate entrance. (A, B~~(C)~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 350.2710 Structural

a) ~~Design Data~~ General Structural Requirements

- 1) The buildings and all parts thereof shall be of sufficient strength to support all dead, live, and lateral loads without exceeding the working stresses permitted for the materials of their construction in generally accepted good engineering practice. (B~~(C)~~)
- 2) Special provision shall be made for loads which have a greater load than the specified minimum live load, including partitions which are subject to change of location. (B~~(C)~~)
- b) Construction shall be in accordance with the requirements of National Fire Protection Association Standard 101, Life Safety Code, and the minimum requirements contained herein. (A, B~~(C)~~)
  - 1) Foundations shall rest on natural solid ground and shall be carried to a depth of not less than one ~~(4)~~ foot below the estimated frost line or shall rest on leveled rock or load-bearing piles or caissons when solid ground is not encountered. Footings, piers, and foundation walls shall be adequately protected against deterioration from the action of ground water. ~~(C)~~ It is recommended that soil test borings be taken to establish proper soil-bearing values for the soil at the building site.
  - 2) Assumed live loads shall be in accordance with the International Conference Buildings Officials Uniform Building Code.
  - 3) The fire resistance rating of the structural members shall be as established by National Fire Protection Association 220 Standard Types of Building Construction.
- c) Provisions for Natural Disasters (B~~(C)~~)
  - 1) Earthquakes: In regions where local experience shows that earthquakes have caused loss of life or extensive property damage, buildings and structures shall be designed to withstand the force assumptions specified in the International Conference Buildings Officials Uniform Building Code. Seismic zones are identified on the map found in Appendix C. (B~~(C)~~)
  - 2) Tornadoes and Floods: Special provisions shall be made in the design of buildings including structural design, in regions where local experience shows loss of life or damage to buildings



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## Section 350.2710(c)(2) (continued)

resulting from hurricanes, tornadoes, or floods. (B—~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2720 Mechanical Systems

a) General-Mechanical systems shall be tested, balanced, and operated to demonstrate that the installation and performance of these systems conform to the requirements of these standards. ~~(G)~~

2) Upon the completion of the contract, the owner shall be furnished with a complete set of manufacturer's operating and preventative maintenance instructions, parts list with numbers and descriptions for each piece of equipment and a copy of the air-balance report. A complete set of these documents shall be kept on the premises. ~~(G)~~

3) The owner shall be provided with instructions in the operational use of the systems and equipment as required. ~~(G)~~

## b) Thermal and Acoustical Insulation

1) Insulation shall be provided for the following:

2) Boilers, smoke breaching, and stacks. ~~(G)~~

3) Steam supply and condensate return piping. (B—~~G~~)

4) Hot water piping above 180 degrees Fahrenheit and all hot water heaters, generators, and converters. ~~(G)~~

5) Hot water piping above 125 degrees Fahrenheit which is exposed to contact by residents. (B)

6) Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point. ~~(G)~~

7) Water supply and drainage piping on which condensate may occur. ~~(G)~~

8) Air ducts and casings with outside surface temperatures below ambient dew point. ~~(G)~~

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## Section 350.2720(b) (continued)

9) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system. ~~(G)~~

10) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents when such insulation is not necessary for preventing excessive system heat loss or excessive heat gain.

A) Insulation including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment shall have a flame spread rating of ~~twenty-five (25)~~ or less and a smoke developed rating of ~~one hundred fifty (150)~~ or less as determined by an independent testing laboratory in accordance with American Society Testing Materials Standard E84. Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements where they are located entirely outside of a building, or do not penetrate a wall or roof or do not create an exposure hazard. (B—~~G~~)

B) Access for filter changing shall be provided within equipment rooms. ~~(G)~~

## c) Steam and Hot Water Systems

Supply and return mains and risers for cooling, heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends. ~~(G)~~

## d) Heating, Cooling, and Ventilating Systems

1) A design temperature of 75 degrees Fahrenheit for both summer and winter design conditions shall be provided for all resident use areas including corridors. ~~(G)~~

2) All ventilation supply, return and exhaust systems shall be mechanically operated. ~~(G)~~

3) Outdoor air intakes shall be located as far as practical, but not less than ~~fifteen (15)~~ feet from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical,

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## Section 350.2720(d)(3) (continued)

- but not less than six ~~(6)~~ feet above ground level, or if installed above the roof, three ~~(3)~~ feet above roof level. ~~(C)~~
- 4) The ventilation systems shall be designed and balanced to provide the pressure relationships and ventilation rates as shown in Table B. (B, ~~C~~)
  - 5) A manometer shall be installed across each filter bed serving central air systems. ~~(C)~~
  - 6) Air conditioning and ventilation systems shall be designed, installed and maintained as required by National Fire Protection Association Standard 90A. (A, B, ~~C~~)
  - 7) The hood and duct system for cooking equipment used in processes producing smoke or grease-laden vapors shall be in conformance with National Fire Protection Association Standard 96. That portion of the fire extinguishment system required for protection of the duct system may be omitted when all cooking equipment is served by a grease extractor listed Underwriter's Laboratory or other independent testing laboratories. (A, B, ~~C~~)
  - 8) Boiler rooms and other rooms having combustion equipment shall be provided with sufficient outdoor air to maintain combustion rates of equipment and limit temperature to 97 degrees Fahrenheit. Effective Temperature as defined by American Society Heating Refrigeration engineers Handbook of Fundamentals. (A, B, ~~C~~)
  - 9) Rooms containing heat production equipment, such as boiler rooms, heater rooms, food preparation centers, laundries, and sterilizer rooms shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of ~~10~~ ~~(C)~~ ten degrees Fahrenheit above the ambient room temperature.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2730 Plumbing Systems

- a) ~~General~~ All plumbing systems shall be designed and installed in accordance with the requirements of the Department's rules entitled

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## Section 350.2730(a) (continued)

"Illinois Plumbing Code" (77 Ill. Adm. Code 890) except that the number of resident required water closets, lavatories, bathtubs, showers, and other fixtures shall be as required by these standards and the facility program. (B, ~~C~~)

## b) Plumbing Fixtures

- 1) Plumbing fixtures shall be of non-absorptive acid-resistant materials.
  - 2) The water supply spout for lavatories and sinks required for filling pitchers, for nursing staff and food handlers' handwashing, shall be mounted so that its discharge point is a minimum distance of five ~~(5)~~ inches above the rim of the fixture. (B, ~~C~~)
  - 3) Handwashing lavatories used by nursing staff and food handlers shall be trimmed with valves which can be operated without the use of hands. When blade handles are used for this purpose, the blade handles shall not exceed four and one-half ~~(4 1/2)~~ inches in length, except the handles on clinical sinks shall not be less than six ~~(6)~~ inches in length. ~~(C)~~
  - 4) Clinical rim flush sinks shall have an integral trap in which the upper portion of the trap seal provides a visible water surface. ~~(C)~~
  - 5) The potwashing sink shall be a three ~~(3)~~ compartment sink with one compartment at least ~~fourteen (14)~~ ~~(C)~~ inches deep.
  - 6) Shower bases and tub bottoms shall be provided with nonslip surfaces. (B, ~~C~~)
- c) Water Supply Systems
- 1) Water supply systems shall be designed to supply water at sufficient pressure and volume to operate all fixtures and equipment during maximum demand periods. ~~(C)~~
  - 2) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture. ~~(C)~~
  - 3) Flush valves installed on plumbing fixtures shall be of a quiet



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- operating type, equipped with silencers. ~~(C)~~
- 4) Hot water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. ~~(B-6)~~
  - 5) Hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit. ~~(A, B-6)~~
  - 6) A thermostatically controlled missing valve shall be provided on each hot water system serving resident areas to insure that the water temperature does not exceed 110 degrees Fahrenheit. ~~(A, B-6)~~

## d) Hot Water Heaters and Tanks

- 1) A) The hot water heating equipment shall have sufficient capacity to supply water at the temperature and quantities in the following areas: ~~(C)~~

	Resident Service	Dietary	Laundry
gallons/hour/bed	6 1/2	4	4 1/2
Temperature °F	110	140*	180

\*180°F water required at dishwasher and pot and pan sink.
- B) Water temperatures to be taken at the point of use or discharge of the hot water or inlet to processing equipment. ~~(C)~~

- 2) Water storage tanks shall be fabricated of corrosion resistant metal or lined with non-corrosive material. ~~(C)~~

## e) Drainage Systems

Insofar as possible drainage piping shall not be installed above the ceiling nor installed in an exposed location in food preparation centers, food serving facilities, food storage areas, and other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems. ~~(B-6)~~

## f) Fire Extinguishing Systems

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## Section 350.2730(f) (continued)

- 1) A complete automatic sprinkler system shall be installed throughout all facilities regardless of construction type. ~~(A, B-6)~~
  - 2) All sprinkler and other fire extinguishing systems shall be designed and installed in accordance with National Fire Protection Association Standard 101 and referenced codes. ~~(A, B-6)~~
  - 3) All sprinkler systems shall be maintained in accordance with National Fire Protection Association Standard 13A. ~~(A, B-6)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.2740 Electrical Systems

## a) General

- 1) All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities required by these standards. All materials shall be listed as complying with available standards of Underwriters' Laboratories, Inc. or other similarly established standards. ~~(B-6)~~
- 2) All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified and be in accordance with these standards. ~~(A, B-6)~~
- 3) The installation shall meet all the requirements of the latest "National Electrical Code." ~~(A, B-6)~~
- b) Switchboards and Power Panels. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in ambient temperature conditions. ~~(C)~~

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## Section 350.2740 (continued)

c) Panelboards. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits. ~~(C)~~

d) Lighting

1) All spaces occupied by people, machinery, and equipment within buildings, approaches to and exits from buildings, and parking lots shall have lighting. ~~(C)~~

2) Resident's rooms shall have general lighting. A vandal-proof reading light shall be provided for each resident. At least one light fixture shall be switched at the entrance to each resident room. All switches for control of lighting in resident's sleeping areas shall be of the quiet operating type. ~~(C)~~

e) Receptacles (Convenience Outlets)

1) Each resident bed room shall have duplex grounding type receptacles as follows: One located each side of the head of each bed; one for television if used; and one on another wall. Receptacles are to be located between ~~twelve~~ ~~(12)~~ to ~~thirty~~ ~~(30)~~ inches above the finished floor. ~~(B, C)~~

2) Resident bathrooms shall have at least one ~~(1)~~ duplex receptacle. ~~(C)~~

3) See Article 517 of National Fire Protection Association Standard 70 for grounding requirements.

4) Duplex receptacles shall be installed approximately 50 ~~thirty~~ ~~(50)~~ feet ~~(50-04)~~ apart in all corridors and within 25 ~~thirty~~ ~~(25-04)~~ feet ~~(25-04)~~ of ends of corridors. ~~(C)~~

f) Door Alarm System

Each exterior door shall be equipped with a signal that will alert staff if a resident leaves the building. Any exterior door that is supervised during certain periods may have a disconnect device for part-time use. If there is constant ~~twenty-four~~ ~~(24)~~ hours a day supervision of the door, a signal is not required. ~~(B, C)~~

g) Fire Alarm System

1) A manually and automatically operated fire alarm system shall be

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## Section 350.2740(g)(1) (continued)

installed. ~~(A, B, C)~~

2) Automatic smoke detectors shall be installed in all resident sleeping rooms and at ~~thirty~~ ~~(30)~~ feet on center in all corridors other than sleeping area corridors. ~~(A, B, C)~~

h) Emergency Electrical System

1) To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power. The emergency system shall consist of the life safety branch and the critical branch. ~~(B, C)~~

2) The source of this emergency electrical service shall be an emergency generating set or an approved dual source of normal power. ~~(B, C)~~

3) Life Safety Branch, Automatic Transfer Ten ~~(10)~~ Seconds.

A) Illumination of means of egress as necessary for corridors, passageways, stairways, landings and exit doors, and all ways of approach to and through exits. ~~(A, B, C)~~

B) Exit signs and exit directional signs. ~~(A, B, C)~~

C) Sufficient lighting in dining room and recreation areas to provide illumination to exit ways. ~~(A, B, C)~~

D) Fire alarms activated at manual stations, by electric water flow alarm devices in connection with sprinkler systems, and by all automatic detection systems. ~~(A, B, C)~~

E) Communication systems, where these are used for issuing instructions during emergency conditions. ~~(A, B, C)~~

F) Task illumination, and selected receptacles at the generator set location. ~~(B, C)~~

4) Critical Branch, Automatic Transfer - ~~10~~ Ten Seconds

A) Task illumination and selected receptacles in the nurse's station including the medication preparation area. ~~(B, C)~~



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## Section 350.2740(h)(4) (continued)

## Section 350.2910(a) (continued)

- B) Sump pumps and other equipment required to operate for the safety of major apparatus including associated control systems and alarms. (~~B-6~~)
- C) Elevator cab lighting and communication systems. (~~B-6~~)
- 5) Critical Branch, Automatic or Manual Systems. Heating equipment to provide heating for patient rooms. EXCEPTION: Where the facility is served by two ~~(2)~~ or more electrical services supplied from separate generators or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the facility and the generating sources is not likely to cause an interruption of more than one of the facility service feeders. (~~B-6~~)

## 6) Details

- A) The life safety and critical branch shall be in operation within ten ~~(10)~~ seconds after the interruption of normal electric power supply. (~~B-6~~)
- B) Receptacles connected to emergency power shall be distinctively marked. (~~B-6~~)
- C) The emergency generator shall not be solely dependent upon a public utility gas system for the fuel supply. Means shall be provided for automatically transferring from one fuel supply to another where dual fuel supplies are used. (~~B-6~~)
- D) Where fuel storage facilities are provided on the site, the fuel tank shall have minimum capacity for ~~twenty-four~~ ~~(24)~~ hour operation of the generator. (~~B-6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

## Section 350.2910 Applicability

- a) This Subpart N applies ~~these standards shall apply~~ to all existing Long-Term Care Facilities and all minor alterations or remodeling

changes to existing facilities. See Section 350.2610(b) for New Construction and Major Additions and Alterations. Minor alterations or remodeling changes which do not affect the structural integrity of the building, which do not change functional operations, which do not affect fire safety, and which do not add beds or facilities over those for which the Long-Term Care Facility is licensed need not be submitted for ~~planning~~ approval. However, the Health Facilities Planning Board Requirements must be met for all alteration and remodeling projects.

- b) Sheltered Care Facilities having architectural drawings and specifications, or the building, first approved by the Department for licensure after October 1, 1974, must meet the applicable requirements of Subpart M to convert to an Intermediate Care Facility for the Developmentally Disabled.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.2920 Codes and Standards

- a) Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances and regulations which are enforced by city ~~city, county, county~~ or other local jurisdictions. (~~B-6~~)
- b) The 1981 Edition of the National Fire Protection Association (NFPA) Standard No. 101, Life Safety Code for existing structures and all appropriate references under Appendix "B" of that Code, but no subsequently amended edition of the Code, shall apply to and become a part of these standards. Pursuant to the Medicare-Medicaid certification requirements of 42 CFR 442.507(c) (1983), but no subsequently amended editions of these Federal regulations, any facility that on November 26, 1982 complied with the requirements of the 1967 edition of the Life Safety Code, rather than the 1981 edition of the Life Safety Code, will be accepted by the Department for licensure and certification as long as the facility continues to remain in compliance with the 1967 edition of the Code. (A, ~~B-6~~)

- c) The following exceptions to the 1967 Life Safety Code have been established by the Department:

- 1) Facilities shall be of the following heights and construction types with sprinkler requirements identified in the Table C: (~~B-6~~)

## Section 350.2920(c) (continued)

- 2) Dead-end corridors greater than ~~fifty~~ 50 feet in length shall be altered so that exits are accessible in at least two ~~two~~ two directions from all points in aisles, passageways, and corridors. (B-~~6~~)
- 3) Exit discharge doors and resident sleeping doors must be at least 34 inches in width. Width required is the width of the door leaf. ~~(C)~~
- 4) All corridors shall be at least four ~~(4)~~ 4 feet wide. ~~(C)~~

## d) The following equivalencies have been established by the Department:

- 1) Where corridor partition walls are not continuous from the floor slab to the underside of the floor or roof slab above, through any concealed spaces such as those above the suspended ceilings and through interstitial structural and mechanical spaces, the following equivalencies are permitted: (B-~~6~~)
  - A) A membrane ceiling which may be lath and plaster or drywall or a lay-in ceiling with all tiles clipped down and with all clips remaining in place, or with all the tiles weighing at least one ~~(1)~~ 1 pound per square foot. The ceiling may be suspended but it must be constructed continually from exterior wall to exterior wall and must be part of a one ~~1~~ 1-hour rated assembly. All recessed lights, all duct outlets and all speaker outlets ~~etc.~~ must be properly protected in accordance with Code. Plenums are not allowed unless each outlet is properly protected. This concept is applicable only to ~~2~~ 2-hour fire resistive and ~~1~~ 1-hour protected noncombustible construction.
  - B) A membrane ceiling of at least a one ~~(1)~~ 1-hour rating (such as two layers of ~~5/8~~ 5/8 five-eighths inch Fire Code drywall) is acceptable for noncombustible, one ~~(1)~~ 1-hour protected ordinary, ordinary, one ~~(1)~~ 1-hour protected wood frame, wood frame and heavy timber construction.
  - C) Corridor walls need not run up in ~~2~~ 2-hour fire resistive and ~~1~~ 1-hour protected noncombustible construction if automatic sprinklers are installed throughout.
  - D) Smoke detectors may be used in lieu of continuous corridor

## Section 350.2920(d)(1)(D) (continued)

- 2) This equivalency is applicable only to those facilities which are in conformance with these requirements on the date of promulgation of these standards and only if the facility remains in conformance. The equivalency is applicable to facilities with nonconforming construction type. The following requirements must be met for facilities four stories or more in height of protected ordinary construction. ~~(C)~~
    - A) The fire resistance rating of all structural members must meet the two-hour fire resistive classification of NFPA 220, Standard Types of Building Construction, dated May, 1961, except that floor and roof framing members and nonbearing walls may be of combustible construction.
    - B) Smoke detectors must be installed in all resident rooms, corridors, living areas, day rooms and in all hazardous and severely hazardous areas throughout the facility. However, automatic heat detectors may be installed, in lieu of automatic smoke detectors, in kitchens, laundry rooms, boiler-furnace rooms and attic spaces (places where smoke, dust ~~and/or~~ and humidity sometimes activate smoke alarms, when no fire is present, resulting in false fire alarms), if the facility chooses to do so for the purpose of reducing the number of false fire alarms. A zone readout identifying areas involved in a fire must be provided.
    - C) All electrical systems shall meet the National Electrical Code in effect at the time of acceptance of the facility.
    - D) Facility shall establish and enforce written procedures to prohibit smoking in resident sleeping rooms and corridors. Smoking is permitted only in controlled areas.
    - E) A complete automatic extinguishment system shall be installed throughout the facility.
    - F) All health survey deficiencies must be corrected.
- wall construction all building construction types which are equipped throughout with an automatic extinguishment system required by these Standards. Automatic heat detectors, in lieu of automatic smoke detectors, may be installed in kitchens, laundry rooms, boiler-furnace rooms and attic spaces.



## Section 350.2920(d)(2) (continued)

G) The physically handicapped residents shall be housed on the lowest sleeping room floor and ambulant residents may be housed on any floor.

H) Complete smoke barriers including one-hour rated walls and ~~1-3/4~~ one and three-quarters inch thick solid core wood corridor doors with closers shall be installed as directed by the Department.

e) The following rules ~~codes~~ which were effective at the date of approval by the Department of the final drawings and specifications or the final inspection of the building apply: (B-, C--)

- 1) Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health ~~State of Illinois Environmental Health Protection~~
  - 2) Illinois Accessibility Code ~~Standards Illustrated~~ (71 Ill. Adm. Code 400), ~~State of Illinois~~ Capital Development Board
  - 3) Fire Prevention and Safety (41 Ill. Adm. Code 100), ~~State of Illinois~~ Office of the State Fire Marshal
  - 4) Food Service Sanitation (77 Ill. Adm. Code 750), ~~State of Illinois~~ Department of Public Health ~~Environmental Health Protection~~
  - 5) ~~Boiler Safety Act and~~ Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120), ~~Rules and Regulations~~ ~~State of Illinois~~ Office of the State Fire Marshal
  - ~~6) State of Illinois, Safety Glazing Materials Act, 1971~~  
~~State of Illinois Department of Labor~~
- f) ~~7)~~ The requirements in this Part ~~These IDPH Standards~~ govern in cases of differences between this Part ~~these IDPH Standards~~ and the rules ~~Codes and Standards~~ listed in this Section ~~before~~. (B-, C--)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.2930 Preparation of Drawings and Specifications

Drawings and specifications which are prepared for work which is required by

## Section 350.2930 (continued)

this Part ~~these Standards~~ shall be prepared in accordance with Section 350.2630 ~~52-03-00-00 of the Construction Standards for New Facilities~~.  
~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.2940 Site

- a) Each facility shall comply with all applicable zoning ordinance and be located on a reasonably flat or rolling, well-drained site that is: not subject to flooding; reasonably free from sources of excessive noise, noxious or hazardous smoke or fumes; not in a deteriorated, unpleasant, or potentially hazardous area; and not near uncontrolled sources of insect and rodent breeding. ~~(C)~~
- b) Each facility shall be located in or near a community which can provide the necessary supportive services for the facility such as physicians' services, social services, transportation, recreational facilities, religious services, work, medical facilities, public utilities, or other acceptable substitutes; and be located on a well-maintained, all-weather road. ~~(C)~~
- c) Each facility shall be served by a potable water supply with water pressure and volume that is acceptable to this Department. ~~(C)~~
- d) Each facility shall have at least one ~~(1)~~ municipal or private fire hydrant, located within ~~three hundred~~ ~~(300)~~ feet of the building and satisfactory for use by the equipment of the fire department serving the building, or have an acceptable equivalent. Additional hydrants may be required if needed to properly protect the residents from fire hazards. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.2950 Administration and Public Areas

- a) Facilities for the physically handicapped (public, staff and residents) shall be provided in administration and public areas as well as in resident areas. ~~(C)~~
- b) Each facility shall be provided with sufficient administrative office space for clerical, financial, and managerial functions and provide satisfactory space which can be used for privacy in interviewing

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## Section 350.2950(b) (continued)

applicants, for discussion with relatives, and other necessary functions. ~~etc.~~ ~~(G)~~

- c) Each facility shall be provided with satisfactory space or an office for the administrator. ~~(G)~~
- d) Each facility shall be served by reliable telephone service. ~~(G)~~  
(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2960 Nursing Unit

## a) General Requirements for Bedrooms

- 1) Resident bedrooms shall have an entrance directly off a corridor with an entrance door that swings into the room. ~~Resident bedrooms shall have an entrance directly off a corridor with an entrance door that swings into the room.~~ Rooms used as bedrooms and included in the licensed capacity as of December 24, 1987, which do not open directly into corridors but instead open into large living/dining/activity areas, are exempt from this rule. However, no additional such rooms will be permitted to be established after December 24, 1987. ~~(G)~~

- 2) Resident bedroom shall have adequate and satisfactory artificial light and be equipped in accordance with Section 350.3040(c)(2) and (d).

- 3) Resident toilet rooms shall open directly into a corridor or into a resident's bedroom. ~~(B, G)~~

- 4) A closet or wardrobe at least six ~~(6)~~ square feet shall be provided for each resident. ~~(G)~~

- 5) Each bedroom floor shall be no more than three ~~(3)~~ feet below the adjacent ground level. ~~(G)~~

- 6) Each room used as a resident bedroom shall have at least one ~~(1)~~ outside window, and a total window area to the outside equal to at least one-tenth ~~(1/10)~~ the floor area of the room. ~~(G)~~

## b) Resident Bedrooms

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## Section 350.2960(b) (continued)

- 1) Each single ~~Single~~ resident bedroom shall contain at least 100 square feet. Each multiple ~~Multiple~~ resident bedroom shall contain at least 80 square feet per bed. Multiple bedrooms of not less than 70 square feet per bed may be approved by the Department if services can be provided. Minimum usable floor area shall be exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, vestibules, or clearly definable entryways. Those bedrooms for which facilities had waivers to this subsection (b)(1) on (and continuously since) December 24, 1987, and which have at least 90 square feet for single bedrooms and 70 square feet for multi-bedrooms, are exempt from this subsection (b)(1). Those bedrooms for which facilities had waivers to this subsection (b)(1) on (and continuously since) December 24, 1987, but which have less than 90 square feet for single bedrooms and 70 square feet for multi-bedrooms, continue to be subject to waiver procedures on an annual basis (See Section 350.320). ~~(G)~~

- 2) Maximum room capacity shall be four ~~(4)~~ residents. Beds shall be at least three ~~(3)~~ feet apart and no more than three ~~(3)~~ feet deep from an outside wall. There shall be a minimum of ten ~~(10)~~ feet between walls or a wall and any built in furniture or storage space. ~~Those facilities which had waivers to this rule as of December 24, 1987, and which have at least 90 square feet for single bedrooms and 70 square feet for multi-bedrooms are exempt from this rule. Those facilities which had waivers as of December 24, 1987, but have less than 90 square feet for single bedrooms and 70 square feet for multi-bedrooms must continue to apply for a waiver on an annual basis. (G)~~

## c) Special Care Room

- 1) Provide a special care room for each ~~one hundred fifty~~ ~~(150)~~ beds. ~~(G)~~

- 2) Provide this room with a toilet lavatory and all other necessary facilities to meet the resident's needs and as required to care for an ill resident. ~~(G)~~

- 3) This room shall be located to provide proper and efficient supervision of the resident by the nursing staff. ~~(G)~~

- 4) The room may be included in the authorized maximum bed capacity for the facility. It is permissible for the room to be occupied



## Section 350.2960(c)(4) (continued)

by a resident, not in need of special care, provided the resident is clearly informed and understands he will be immediately transferred out of the room any time of day or night, whenever the room is needed to care for a resident requiring special care.

## d) Nurses' Station

- 1) Provide a minimum of one ~~(1)~~ nurses' station on each floor. The station shall have direct access to a corridor, shall be located near the area it will serve, and shall be designed to provide visual control of the area. It shall be separated satisfactorily from the nurses' utility rooms. In Intermediate Care Facilities for the Developmentally Disabled one ~~(1)~~ nurses' station serving two ~~(2)~~ floors housing residents is acceptable if there are less than ~~fifteen~~ ~~(15)~~ beds on an adjacent floor which are served by the nurses' station. (~~B~~)

- 2) At least one ~~(1)~~ nurses' station shall have a medicine sink with hot and cold running water, a work counter, a medicine cabinet, and necessary equipment and furnishings. ~~(C)~~

- 3) Provide a nurses' toilet and handwashing sink convenient to the nurses' station. ~~(C)~~

## e) Bath and Toilet Rooms

- 1) The maximum capacity of resident beds on each floor shall be used to determine the number of fixtures required even though some of the beds are not occupied.

- A) Provide a minimum of one ~~(1)~~ water closet, one ~~(1)~~ lavatory, and one ~~(1)~~ bathtub or shower for each sex on each floor occupied by residents. ~~(C)~~

- B) Provide a minimum of one ~~(1)~~ lavatory and one ~~(1)~~ water closet for each ten ~~(10)~~ resident beds on each floor. ~~(C)~~

- C) Provide a minimum of one ~~(1)~~ bathtub or shower for each ~~fifteen~~ ~~(15)~~ resident beds on each floor. ~~(C)~~

- D) Each lavatory shall be provided with well illuminated mirror. ~~(C)~~

## Section 350.2960(e) (continued)

- 2) All bath and toilet rooms shall be easily accessible, and conveniently located. Group bath and toilet facilities shall be partitioned or curtained for privacy. ~~(C)~~

- 3) All showers, other than those for residents needing assistance in bathing, shall have minimum dimensions of three ~~(3)~~ feet by three ~~(3)~~ feet. ~~(C)~~

- 4) Shower stalls shall have a low or no curb at the entrance opening. Under certain circumstances this may be waived but in no instances can the curb be higher than three ~~(3)~~ inches. ~~(C)~~

- 5) If toilet rooms provide adjacent to residents' bedrooms are not large enough to permit use by wheelchair residents, at least one ~~(1)~~ toilet room or enclosure measuring five ~~(5)~~ feet by six ~~(6)~~ feet shall be provided on each floor housing residents. Provide a lavatory usable by wheelchair residents in this room. ~~(C)~~

- 6) Provide on each floor at least one ~~(1)~~ bathing facility or enclosure of not less than eight ~~(8)~~ feet six ~~(6)~~ inches by eight ~~(8)~~ feet six ~~(6)~~ inches with an acceptable system for assistance in bathing persons with physical disabilities. If a shower is installed instead of a bathtub, such shower shall have a minimum dimension of four ~~(4)~~ feet wide by three ~~(3)~~ feet six ~~(6)~~ inches deep. These showers shall have a water inlet to which is connected a flexible hose with spray or shower head attached to the end of the hose. If desired, a conventional shower head installation may also be provided but it must be valved off from the lower water inlet. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.2970 Living, Dining, Activities Rooms

- a) Provide at least one ~~(1)~~ comfortably furnished living room and dining room for use of residents. ~~(C)~~

- 1) The room ~~(C)~~ shall be an outside room ~~(C)~~. Their combined areas shall be not less than ~~forty~~ ~~(40)~~ square feet per resident bed. ~~(C)~~

- 2) The dining room shall be sufficient in area to allow for proper

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## Section 350.2970(a)(2) (continued)

- and comfortable service for the residents. ~~(C)~~
- 3) Be located so that the room is not an entrance vestibule from the out-of-doors.
  - 4) The furniture shall be arranged so that it is not an obstruction to traffic in or out of the facility. ~~(C)~~
  - b) The activity room may be combined with the living ~~and/or~~ or dining room.
  - c) In multiple story buildings living rooms must be provided on each floor unless a variance to this requirement is approved in writing by the Department. ~~(C)~~
  - d) Additional interior rooms may be used for television, craft, or similar activities.
  - e) Under no circumstances shall any of these rooms be used as a bedroom. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.2980 Treatment and Personal Care

Space and appropriate equipment shall be provided to meet the resident's needs for treatment, grooming and hair care. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.2990 Service Department

## a) Kitchen

- 1) Provide a kitchen area, not including food storage area, of approximately ten ~~(40)~~ square feet per resident bed; this may be reduced for a facility with ~~seventy-five~~ ~~(75)~~ more beds. Any deviation from this requirement must receive approval from the Department. ~~(B-C)~~
- 2) Provide kitchen equipment in an arrangement for convenient operation, good sanitation, healthful working conditions and control of heat, noise and odors. ~~(B-C)~~

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## Section 350.2990(a) (continued)

- 3) Provide appropriate equipment for preparation and serving of meals. ~~(B-C)~~
  - 4) Provide refrigeration of perishable foods. ~~(B-C)~~
  - 5) The kitchen shall be equipped with a two ~~(2)~~ compartment sink for washing and sanitizing dishes, pots, pans and utensils. ~~(B-C)~~ A commercial type dishwasher is recommended.
  - 6) The kitchen shall be provided with a handwashing lavatory. ~~(B-C)~~
  - 7) The walls and ceilings of all food handling rooms shall be finished with smooth, washable, light colored surfaces. ~~(C)~~
  - 8) All openings to the outside shall be effectively screened during fly seasons, and screen doors shall be equipped with self-closing devices; or a satisfactory alternative method. ~~(C)~~
  - 9) The kitchen shall be located so that no resident must pass through it to reach a bathroom, resident's bedroom, the living room, dining room, or the out-of-doors. ~~(B-C)~~
  - 10) Provide approximately two and one-half ~~(2 1/2)~~ square feet per patient bed for bulk and daily food storage located in a room convenient to the kitchen. ~~(C)~~
- b) Laundry
- 1) Provide a laundry room equipped with adequate facilities for satisfactorily doing all laundering, unless a commercial laundry service is used. ~~(C)~~
  - 2) Provide satisfactory and separate areas for soiled holding and sorting and clean linen storage. These may be in the same room if well defined and adequate separation is provided. ~~(C)~~
  - 3) The laundry facilities shall not be located in a room used by residents, or for food storage, preparation or serving. It shall be located so that soiled linens are not carried through a food handling area to reach it. ~~(B-C)~~
- c) Storage



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## Section 350.2990(c) (continued)

- 1) Provide a total area of approximately seven and one-half ~~(7 1/2)~~ square feet per resident bed for the storage area required in this section. ~~(G)~~
- 2) Provide adequate storage space for personal possessions of residents and staff, linens, supplies, and other items. This storage shall be such that it does not constitute a fire or accident hazard and will not be in the way of residents or staff. ~~(G)~~
- 3) Provide adequate storage space in the facility, out of the way of residents and staff, to store wheelchairs, walkers, and similar equipment temporarily not being used. ~~(G)~~
- 4) Provide closets for cleaning supplies, janitor's sinks, linen closets, storerooms for luggage, and furniture replacements. ~~etc. (G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 350.3000 General Building Requirements ~~Building General~~

## a) Elevators

- 1) Provide a minimum of one ~~(1)~~ elevator in all buildings of three ~~(3)~~ or more stories in height. Additional elevators shall be provided as determined by the Department. The basement, if it is used by residents, shall be considered as one ~~(1)~~ story. ~~(G)~~
- 2) If ~~sixty (60)~~ to ~~two hundred (200)~~ beds are located above the second floor, at least one ~~(1)~~ additional elevator shall be provided. If over ~~two hundred (200)~~ beds are located above the second floor, the number of additional elevators shall be determined by the Department. ~~(G)~~
- 3) The administrator of the facility must be able to demonstrate to the Department the ability to transfer a patient according to physician's orders using existing elevators and elevator doors. ~~(G)~~

## b) Handrails and Grab Bars

- 1) Handrails shall be provided on both sides of all corridors,

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## Section 350.3000(b)(1) (continued)

- stairs, and ramps. Handrails shall be one and one-half ~~(1 1/2)~~ inches in diameter and one and one-half ~~(1 1/2)~~ inches minimum clear of the wall. The height shall be ~~thirty (30)~~ to ~~thirty-four (34)~~ inches measured vertically from floor surface. Refer to the ~~State of~~ rules of the Capital Development Board entitled "Illinois Accessibility Code" ~~Standards (71 Ill. Adm. Code 400) for other acceptable handrail dimensions and details. (B-G)~~
- 2) Grab bars shall be provided at all resident toilets, showers, tubs, and sitz bath ~~etc.~~. Refer to ~~State of~~ the rules of the Capital Development Board entitled "Illinois Accessibility Code" ~~(71 Ill. Adm. Code 400) Standards for grab bar dimensions and details. (B-G)~~
- c) Ceiling Heights
  - 1) All rooms occupied by or used by residents shall have not less than eight ~~(8)~~ feet ceiling height. ~~(G)~~
  - 2) Corridors, storage rooms, toilet rooms and other minor rooms shall not be less than seven feet eight inches ~~(7' 8")~~ ceiling height. ~~(G)~~
  - 3) Suspended pipes and similar features ~~etc.~~ located in the path of traffic shall not be less than six feet eight inches ~~(6' 8")~~ above the floor. ~~(G)~~
- d) Doors and Windows
  - 1) Main entrance and exit doors shall swing outward and be provided with door closers and panic-hardware. ~~(B-G)~~
  - 2) All exterior doors shall be equipped with a signal that will alert the staff if a resident leaves the building. Any exterior door that is supervised during certain periods may have a disconnect device for part-time use. If there is constant ~~twenty-four (24)~~ hour a day supervision of the door, a signal is not required. ~~(B-G)~~
  - 3) Locks installed on resident bedroom doors shall be so arranged that they can be quickly and easily unlocked from the corridor side. All such locks shall be arranged to permit exit from the room by a simple operation without the use of a key. The door may be lockable by the occupant if the door can be unlocked from

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## Section 350.3000(d)(3) (continued)

the corridor side and the keys are carried by the attendants at all times. (B-~~7~~-G-)

- 4) Resident toilet rooms shall open directly into a corridor or into a resident's bedroom. ~~(C-)~~
- 5) The doors for the toilet rooms used by residents shall have a minimum door width of ~~thirty~~ ~~(30)~~ inches.
- 6) No toilet or bathroom door shall be provided with hardware which could allow a resident to become locked in the room. All toilet or bathroom doors and hardware shall be designed to permit emergency ingress to the room. ~~(C-)~~
- 7) Thresholds or parting strips in doorways used by residents shall be flush with the floor. ~~(C-)~~
- 8) Doors and windows shall fit snugly and be weather tight, and shall open and close easily. ~~(C-)~~
- 9) Outside doors, other than required exits, and operable windows shall be equipped with tight-fitting, 16-mesh screens. Screen doors shall be equipped with self-closing devices. ~~(C-)~~
- e) Floors
  - 1) Floors shall be smooth, free from cracks and finished so that they can be easily and properly cleaned. (B-~~7~~-G-)
  - 2) Floors in bathrooms, kitchens, and utility rooms shall be completely covered with water resistant material. (B-~~7~~-G-)

## f) Walls and Ceilings

- 1) Walls and ceilings shall have sound construction, covered with plaster or sheet rock or similar material in good repair, and free from cracks or holes to permit proper cleaning. ~~(C-)~~
- 2) Be constructed and maintained so as to prevent the entrance and harborage of rats, mice, flies, and other vermin. ~~(C-)~~
- g) Exit corridor walls shall be one ~~(1)~~ hour fire rated construction. Adjoining open spaces shall not be greater than ~~four~~ ~~(600)~~ square feet. Provide direct visual supervision of these open spaces and equip them with an electrically supervised

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## Section 350.3000(g) (continued)

- smoke detection system. (B-~~7~~-G-)
- h) There shall be at least one ~~(1)~~ approved fire extinguisher in all basements, furnace rooms, and kitchens. In addition, there shall be on each floor of the building, extinguishers located so a person will not have to travel more than ~~fifty~~ ~~(50)~~ feet from any point to reach one. They shall be inspected annually and recharged when necessary. The date of checking and recharging shall be recorded on a tag attached to the extinguisher. (B-~~7~~-G-)
  - i) Approved containers with proper covers shall be provided for daily storage of rubbish. (B-~~7~~-G-)
  - j) Housekeeping throughout the building, including basements, attics, and unoccupied rooms shall be adequately performed to minimize all fire hazards. (B-~~7~~-G-)
  - k) Comply with any reasonable additional fire protection measures recommended by the Department over and above these requirements or the Office of the State Fire Marshall if conditions in and around building, including its location, indicate that such additional protection is needed. (B-~~7~~-G-)
  - l) Facilities shall have no other business in the building which is unrelated to health care that constitutes a hazard or annoyance to the residents. In any case, the business shall be in a segregated portion of the building and must be approved by the Department. (A, B-~~7~~-G-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3010 Structural

- a) Buildings and all parts thereof shall be maintained structurally to support all dead, live and lateral loads. (B-~~7~~-G-)
  - b) Buildings shall be maintained in good repair. Buildings that show signs of distress shall be repaired immediately. (B-~~7~~-G-)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 350.3020 Mechanical Systems

- a) Mechanical systems shall be maintained to assure proper working order and safe operation. Instructions in the operational use of the systems and equipment must be available at the facility. (B, ~~G~~)
- b) Thermal and Acoustical Insulation. It is recommended that insulation be provided for the following:
  - 1) Boilers, smoke breeching, and stacks. ~~(C)~~
  - 2) Steam supply and condensate return piping. ~~(C)~~
  - 3) Hot water piping above 180 degrees Fahrenheit and all hot water heaters, generators, and converters. ~~(C)~~
  - 4) Hot water piping above 125 degrees Fahrenheit which is exposed to contact by residents. ~~(C)~~
  - 5) Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point. ~~(C)~~
  - 6) Water supply and drainage piping on which condensation may occur. ~~(C)~~
  - 7) Air ducts and casings with outside surface temperature below ambient dew point. ~~(C)~~
  - 8) Other piping, ducts, and equipment as necessary to maintain the efficiency of the system. ~~(C)~~
  - 9) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents when such insulation is not necessary for preventing excessive systems heat loss or excessive heat gain.
  - 10) Insulation on cold surfaces shall include an exterior vapor barrier. ~~(C)~~
  - 11) Insulation including finishes and adhesives on exterior surfaces of ducts, pipes, and equipment shall have a flame spread rating of 25 or less and a smoke developed rating of 150 or less as determined by an independent testing laboratory in accordance with ASTM Standard E 84. ~~(C)~~ Exception: Duct, pipe and equipment coverings shall not be required to meet these requirements where they are located entirely outside of a

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## Section 350.3020(b)(11) (continued)

- c) Steam and Hot Water Systems. It is recommended that supply and return mains and risers for cooling, heating and process steam systems be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.
- d) Heating, Cooling, and Ventilating Systems
  - 1) The heating system shall be capable of maintaining a temperature of 75 degrees Fahrenheit in all resident use spaces. ~~(C)~~
  - 2) Auxiliary gas or electric space heaters of an approved closed type may be installed in areas requiring more heat than is produced by the central heating system. Heaters or furnaces of a type to be installed under, in, or on the floor are not permitted. (B, ~~G~~)
  - 3) All ventilation supply, return and exhaust systems shall be mechanically operated. ~~(C)~~
  - 4) The kitchen shall be provided with ventilation for reasonable comfort and with sufficient make-up air for the rangehood exhaust. (B, ~~G~~)
  - 5) The laundry shall be provided with ventilation for reasonable comfort and with air flowing from clean areas to soiled areas with exhaust to the outdoors. (B, ~~G~~)
  - 6) It is recommended that outdoor air intakes be located as far as practical but not less than ~~fifteen~~ ~~(15)~~ feet from the exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems should be located as high as practical but not less than ~~six~~ ~~6~~ feet above ground level, or if installed above the roof, ~~three~~ ~~3~~ feet above roof level.
  - 7) Air conditioning and ventilating systems shall be maintained to conform to the requirements of NFPA 90A. (A, B, ~~G~~)  
Exception: For facilities not exceeding 25,000 cubic feet in volume, NFPA 90B shall apply except "pipeless floor furnaces" are not permitted.

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## Section 350.3020(d) (continued)

## Section 350.3030(c) (continued)

- 8) The hood and duct system for cooking equipment shall be in conformance with NFPA 96. That portion of the fire extinguishment system required for protection of the duct system maybe omitted when all cooking equipment is served by a grease extractor listed by Underwriter's Laboratory or other independent testing laboratory. (A, B ~~7-6~~)
- 9) Boiler rooms and other rooms housing combustion equipment shall be provided with sufficient outdoor air to maintain proper combustion rates. (A, B ~~7-6~~)
- 10) A capability shall be provided to maintain a temperature of at least ~~fifty-five~~ ~~(55)~~ degrees Fahrenheit for at least ~~twelve~~ ~~(12)~~ hours when the normal source of electrical power is interrupted. (A, B ~~7-6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3030 Plumbing Systems

- a) All plumbing systems shall be designed and installed in accordance with the requirements of the Department's rules entitled "Illinois Plumbing Code" (77 Ill. Adm. Code 890) except that the number of water closets, lavatories, bath tubs, showers and other fixtures shall be as required by these Requirements and the facility program. (B ~~7-6~~)

## b) Plumbing Fixtures

- 1) Plumbing fixtures shall be of non-absorptive acid-resistant materials and shall be kept in good repair. ~~(C)~~
- 2) Clinical rim flush sinks shall have an integral trap in which the upper portion of the trap seal provides a visible water surface. ~~(C)~~
- 3) The kitchen two ~~(2)~~ compartment sink shall have one ~~(1)~~ compartment no less than ~~fourteen~~ ~~(14)~~ inches deep. ~~(C)~~
- 4) When existing showers or tubs are replaced or additional showers or tubs provided, the shower bases and tub bottoms shall be provided with nonslip surfaces. ~~(C)~~

## c) Water Supply Systems

- 1) Water supply systems shall be designed to supply potable water at sufficient pressure and volume to operate all plumbing fixtures and equipment during maximum demand periods. ~~(C)~~
- 2) It is recommended that each water service main, branch main, riser and branch to a group of fixtures be valved. Stop valves should be provided at each fixture.
- 3) Hot water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. (B ~~7-6~~)
- 4) Hot water available to residents at shower bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit. (A, B ~~7-6~~)
- 5) Protective measures, such as but not limited to, installation of a mixing valve, limited access to controls, and checking water temperatures daily at various points, shall be implemented to insure that the temperature of hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit. (A, B ~~7-6~~)
- d) Hot Water Heaters and Tanks. Water storage tanks shall be fabricated of corrosion resistant metal or lined with non-corrosive material. ~~(C)~~
- e) Drainage Systems. Special precautions shall be taken to protect food preparation, serving or storage areas from possible leakage or condensation from necessary overhead piping systems. (B ~~7-6~~)
- f) Fire Extinguishment Systems. All fire extinguishment systems shall be designed and installed in accordance with NFPA 101 and NFPA 13. All fire extinguishment systems shall be maintained in accordance with NFPA 13A. (A, B ~~7-6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3040 Electrical Requirements

- a) The electrical installation for existing facilities shall continue to meet all the requirements of the National Electrical Code, effective at the time of approval by the Department of final drawings and specification or the inspection of the building. (A, B ~~7-6~~)



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Section 350.3040 (continued)

- b) Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. Overload protective devices shall be suitable for operating properly in ambient temperature conditions. ~~(C)~~
- c) Lighting
- 1) All spaces occupied by people, machinery, or equipment within buildings, approaches to buildings, and parking lots shall have lighting. ~~(C)~~
- 2) Resident's rooms shall have general lighting. A vandal-proof reading light shall be provided for each resident. ~~(C)~~
- d) Receptacles (Convenience Outlets). Each resident room shall have adequate duplex type receptacles. ~~(C)~~
- e) Door Alarm System. See Section 350.300(d)(2). ~~(B, C)~~
- f) Fire Alarm System
- 1) A manually-operated, electrically-supervised fire alarm system shall be installed. Pre-signal systems are not permitted. ~~(A, B, C)~~
- 2) There shall be an approved fire detection and alarm system throughout the facility. ~~(A, B, C)~~
- 3) The fire alarm signals shall automatically transmit the alarm to any available municipal fire department by direct private line or through an approved central station. ~~(A, B, C)~~
- 4) Fire alarms shall be activated by manual stations and all detection systems and flow alarm devices and sprinkler systems. ~~(A, B, C)~~
- g) Emergency Electrical Requirements ~~(B, C)~~
- 1) To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power. ~~(B, C)~~
- 2) The source of this emergency electrical service shall be one of

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Section 350.3040(g)(2) (continued)

the following: ~~(B, C)~~

- A) An emergency generating set when the normal service is supplied by only one ~~(A)~~ central station transmission line.
- B) Automatic battery operated systems or equipment that will be effective for four ~~(A)~~ or more hours and will be capable of supplying power for lighting for exit signs, exit corridors, stairways, nurses' stations, communication system, and all alarm systems, including the nurses' call system.
- C) An approved dual source of normal power. Such a dual source of normal power shall consist of two ~~(A)~~ or more electrical services fed from separate generator sets or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the facility and the generating sources will not likely cause an interruption of more than one of the facility service feeders. An automatic transfer switch is required between the facility service feeders.
- 3) Provide emergency electrical service for: ~~(B, C)~~
- A) Illumination of means of egress as necessary for corridors, passageways, stairways, landings and exit doors and all ways of approach to and through exits including outside lights,
- B) exit signs and exit directional signs,
- C) fire alarm and detection systems,
- D) communication systems which are used for issuing instructions,
- E) task illumination in the nurses' station.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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## SUBPART O: RESIDENT'S RIGHTS

## Section 350.3210 General

- a) NO RESIDENT SHALL BE DEPRIVED OF ANY RIGHTS, BENEFITS, OR PRIVILEGES GUARANTEED BY LAW BASED ON THEIR STATUS AS A RESIDENT OF A FACILITY. (A, B-~~6~~)
- b) A RESIDENT SHALL BE PERMITTED TO RETAIN AND USE OR WEAR HIS PERSONAL PROPERTY IN HIS IMMEDIATE LIVING QUARTERS, UNLESS DEEMED MEDICALLY INAPPROPRIATE BY A PHYSICIAN AND SO DOCUMENTED IN THE RESIDENT'S CLINICAL RECORD. ~~(C)~~
- c) IF CLOTHING IS PROVIDED TO THE RESIDENT BY THE FACILITY IT SHALL BE OF A PROPER FIT. ~~(C)~~
- d) THE FACILITY SHALL PROVIDE ADEQUATE AND CONVENIENT STORAGE SPACE FOR THE PERSONAL PROPERTY OF THE RESIDENT. ~~(C)~~
- e) THE FACILITY SHALL PROVIDE A MEANS OF SAFEGUARDING SMALL ITEMS OF VALUE FOR ITS RESIDENTS IN THEIR ROOMS OR IN ANY OTHER PART OF THE FACILITY SO LONG AS THE RESIDENTS HAVE DAILY ACCESS TO SUCH VALUABLES. ~~(C)~~
- f) THE FACILITY SHALL DEVELOP PROCEDURES FOR INVESTIGATING COMPLAINTS CONCERNING THEFT OF RESIDENT'S PROPERTY AND SHALL PROMPTLY INVESTIGATE ALL SUCH COMPLAINTS. ~~(C)~~
- g) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT MARRIED RESIDENTS RESIDING IN THE SAME FACILITY BE ALLOWED TO RESIDE IN THE SAME ROOM WITHIN THE FACILITY UNLESS THERE IS NO ROOM AVAILABLE IN THE FACILITY OR IT IS DEEMED MEDICALLY INADVISABLE BY THE RESIDENT'S ATTENDING PHYSICIAN AND SO DOCUMENTED IN THE RESIDENT'S MEDICAL RECORDS. ~~(C)~~
- h) There shall be no traffic through a resident's room to reach any other area of the building. (B-~~6~~)
- i) Children under ~~sixteen~~ ~~(16)~~ years of age who are related to employees or owners of a facility, and who are not themselves employees of the facility, shall be restricted to quarters reserved for family or employee use except during times when such children are part of a group visiting the facility as part of a planned program, or similar activity. ~~(C)~~
- j) A RESIDENT MAY REFUSE TO PERFORM LABOR FOR A FACILITY. ~~(C)~~
- k) A RESIDENT SHALL BE PERMITTED THE FREE EXERCISE OF RELIGION. UPON A

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## Section 350.3210(k) (continued)

RESIDENT'S REQUEST, AND IF NECESSARY AT HIS EXPENSE, THE FACILITY ADMINISTRATOR SHALL MAKE ARRANGEMENTS FOR A RESIDENT'S ATTENDANCE AT RELIGIOUS SERVICES OF THE RESIDENT'S CHOICE. HOWEVER, NO RELIGIOUS BELIEFS OR PRACTICES, OR ATTENDANCE AT RELIGIOUS SERVICES, MAY BE IMPOSED UPON ANY RESIDENT. ~~(C)~~

- l) All facilities shall comply with the "Illinois Election Code" as it pertains to absentee voting for residents of licensed long-term care facilities. ~~(C)~~
- m) THE FACILITY SHALL IMMEDIATELY NOTIFY THE RESIDENT'S NEXT OF KIN, REPRESENTATIVE AND PHYSICIAN OF THE RESIDENT'S DEATH OR WHEN THE RESIDENT'S DEATH APPEARS TO BE IMMINENT. ~~(C)~~
- n) The facility shall also immediately notify the resident's family, guardian, representative, conservator and any private or public agency financially responsible for the resident's care whenever unusual circumstances such as accidents, sudden illness, disease, unexplained absences, extraordinary resident charges, billings, or related administrative matters arise. (B-~~6~~)
- o) WHERE A RESIDENT, A RESIDENT'S REPRESENTATIVE OR A RESIDENT'S NEXT OF KIN BELIEVES THAT AN EMERGENCY EXISTS EACH OF THEM COLLECTIVELY OR SEPARATELY, MAY FILE A VERIFIED PETITION TO THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE FACILITY IS LOCATED FOR AN ORDER PLACING THE FACILITY UNDER THE CONTROL OF A RECEIVER. ~~(C)~~

(Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

## Section 350.3220 Medical and Personal Care Program

- a) A RESIDENT SHALL BE PERMITTED TO RETAIN THE SERVICES OF HIS OWN PERSONAL PHYSICIAN AT HIS OWN EXPENSE UNDER AN INDIVIDUAL OR GROUP PLAN OF HEALTH INSURANCE, OR UNDER ANY PUBLIC OR PRIVATE ASSISTANCE PROGRAM PROVIDING SUCH COVERAGE. (B-~~6~~)
- b) THE DEPARTMENT SHALL NOT PRESCRIBE THE COURSE OF MEDICAL TREATMENT PROVIDED TO AN INDIVIDUAL RESIDENT BY THE RESIDENT'S PHYSICIAN IN A FACILITY. ~~(C)~~
- c) EVERY RESIDENT SHALL BE PERMITTED TO OBTAIN FROM HIS OWN PHYSICIAN OR THE PHYSICIAN ATTACHED TO THE FACILITY COMPLETE AND CURRENT INFORMATION CONCERNING HIS MEDICAL DIAGNOSIS, TREATMENT AND PROGNOSIS IN TERMS AND LANGUAGE THE RESIDENT CAN REASONABLY BE EXPECTED TO



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## Section 350.3220(c) (continued)

UNDERSTAND. ~~(A, B, C)~~

d) EVERY RESIDENT SHALL BE PERMITTED TO PARTICIPATE IN THE PLANNING OF HIS TOTAL CARE AND MEDICAL TREATMENT TO THE EXTENT THAT HIS CONDITION PERMITS. ~~(C)~~

e) NO RESIDENT SHALL BE SUBJECTED TO EXPERIMENTAL RESEARCH OR TREATMENT WITHOUT FIRST OBTAINING HIS INFORMED, WRITTEN CONSENT. THE CONDUCT OF ANY EXPERIMENTAL RESEARCH OR TREATMENT SHALL BE AUTHORIZED AND MONITORED BY AN INSTITUTIONAL REVIEW COMMITTEE APPOINTED BY THE ADMINISTRATOR OF THE FACILITY WHERE SUCH RESEARCH AND TREATMENT IS CONDUCTED. ~~(A, B, C)~~

f) EVERY RESIDENT SHALL BE PERMITTED TO REFUSE MEDICAL TREATMENT AND TO KNOW THE CONSEQUENCES OF SUCH ACTION, UNLESS SUCH REFUSAL WOULD BE HARMFUL TO THE HEALTH AND SAFETY OF OTHERS AND SUCH HARM IS DOCUMENTED BY A PHYSICIAN IN THE RESIDENT'S CLINICAL RECORD. ~~(B, C)~~

g) EVERY RESIDENT, RESIDENT'S GUARDIAN, OR PARENT IF THE RESIDENT IS A MINOR SHALL BE PERMITTED TO INSPECT AND COPY ALL HIS CLINICAL AND OTHER RECORDS CONCERNING HIS CARE AND MAINTENANCE KEPT BY THE FACILITY OR BY HIS PHYSICIAN (see Section 2-104(c) of the Act). EVERY RESIDENT'S REPRESENTATIVE SHALL BE PERMITTED TO INSPECT AND COPY THE RESIDENT'S RECORDS. A "RESIDENT'S REPRESENTATIVE" IS A PERSON, OTHER THAN THE OWNER OR AN AGENT OR EMPLOYEE OF A FACILITY WHO IS NOT RELATED TO THE RESIDENT, DESIGNATED IN WRITING BY A RESIDENT TO BE HIS REPRESENTATIVE, OR THE RESIDENT'S GUARDIAN, OR THE PARENT OF A MINOR RESIDENT FOR WHOM NO GUARDIAN HAS BEEN APPOINTED (see Sections 2-202(h) and 1-123 of the Act). ~~(C)~~

h) A RESIDENT SHALL BE PERMITTED RESPECT AND PRIVACY IN HIS MEDICAL AND PERSONAL CARE PROGRAM. EVERY RESIDENT'S CASE DISCUSSION, CONSULTATION, EXAMINATION AND TREATMENT SHALL BE CONFIDENTIAL AND SHALL BE CONDUCTED DISCREETLY, AND THOSE PERSONS NOT DIRECTLY INVOLVED IN THE RESIDENT'S CARE MUST HAVE HIS PERMISSION TO BE PRESENT. ~~(B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3230 Restraints

a) NEITHER PHYSICAL RESTRAINTS NOR CONFINEMENTS SHALL BE EMPLOYED FOR THE PURPOSE OF PUNISHMENT OR FOR THE CONVENIENCE OF ANY FACILITY

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## Section 350.3230(a) (continued)

PERSONNEL. NO PHYSICAL RESTRAINTS OR CONFINEMENTS SHALL BE EMPLOYED EXCEPT AS ORDERED BY A PHYSICIAN WHO DOCUMENTS THE NEED FOR SUCH RESTRAINTS OR CONFINEMENTS IN THE RESIDENT'S CLINICAL RECORD. ~~(B, C)~~

b) Restraints and confinements may be employed only when necessary to prevent a resident from injuring himself or others. The physician's written authorization shall specify the precise time periods and conditions in which any restraints and confinements shall be employed. ~~(B, C)~~

c) No chemical, medication or tranquilizer shall be employed by a facility as a restraint or confinement in lieu of or in addition to any physical restraint or confinement. Such chemicals, medications or tranquilizers may only be employed as part of a duly prescribed therapeutic medical treatment program authorized by the resident's physician and documented in the resident's clinical record. ~~(B, C)~~

d) No resident shall be subjected to any behavior modification program which utilizes restraints, confinements, or aversive stimuli of any nature unless and until the informed consent of such resident, resident's guardian, or parent of a minor resident has been obtained. ~~(B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3240 Abuse and Neglect

a) AN OWNER, LICENSEE, ADMINISTRATOR, EMPLOYEE OR AGENT OF A FACILITY SHALL NOT ABUSE OR NEGLECT A RESIDENT. ~~(A, B, C)~~

b) A FACILITY EMPLOYEE OR AGENT WHO BECOMES AWARE OF ABUSE OR NEGLECT OF A RESIDENT SHALL IMMEDIATELY REPORT THE MATTER TO THE FACILITY ADMINISTRATOR. ~~(C)~~

c) A FACILITY ADMINISTRATOR WHO BECOMES AWARE OF ABUSE OR NEGLECT OF A RESIDENT SHALL IMMEDIATELY REPORT THE MATTER BY TELEPHONE AND IN WRITING TO THE RESIDENT'S REPRESENTATIVE, OR IF HE IS NOT AVAILABLE THEN TO THE DEPARTMENT. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 350.3250 Communication and Visitation

- a) EVERY RESIDENT SHALL BE PERMITTED UNIMPEDED, PRIVATE AND UNCENSORED COMMUNICATION OF HIS CHOICE BY MAIL, PUBLIC TELEPHONE OR VISITATION. ~~(G)~~
- b) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT CORRESPONDENCE IS CONVENIENTLY RECEIVED AND MAILED, AND THAT TELEPHONES ARE REASONABLY ACCESSIBLE. ~~(G)~~
- c) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT RESIDENTS MAY HAVE PRIVATE VISITS AT ANY REASONABLE HOUR UNLESS SUCH VISITS ARE NOT MEDICALLY ADVISABLE FOR THE RESIDENT AS DOCUMENTED IN THE RESIDENT'S CLINICAL RECORD BY THE RESIDENT'S PHYSICIAN. ~~(G)~~
- d) The facility shall allow daily visiting between 10 A.M. and 8 P.M. These visiting hours shall be posted in plain view of visitors. ~~(G)~~
- e) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT SPACE FOR VISITS IS AVAILABLE AND THAT FACILITY PERSONNEL KNOCK, EXCEPT IN AN EMERGENCY, BEFORE ENTERING ANY RESIDENT'S ROOM. ~~(G)~~
- f) UNIMPEDED, PRIVATE AND UNCENSORED COMMUNICATION BY MAIL, PUBLIC TELEPHONE, AND VISITATION MAY BE REASONABLY RESTRICTED BY A PHYSICIAN ONLY IN ORDER TO PROTECT THE RESIDENT OR OTHERS FROM HARM, HARASSMENT OR INTIMIDATION PROVIDED THAT THE REASON FOR ANY SUCH RESTRICTION IS PLACED IN THE RESIDENT'S CLINICAL RECORD BY THE PHYSICIAN AND THAT NOTICE OF SUCH RESTRICTION SHALL BE GIVEN TO ALL RESIDENTS UPON ADMISSION. ~~(G)~~

- g) NOTWITHSTANDING REGULATION SECTION 350.3250(f) OF THIS SECTION

~~ABOVE~~, ALL LETTERS ADDRESSED BY A RESIDENT TO THE GOVERNOR, MEMBERS OF THE GENERAL ASSEMBLY, ATTORNEY GENERAL, JUDGES, STATE'S ATTORNEYS, OFFICERS OF THE DEPARTMENT, OF LICENSED ATTORNEYS AT LAW SHALL BE FORWARDED AT ONCE TO THE PERSONS TO WHOM THEY ARE ADDRESSED WITHOUT EXAMINATION BY FACILITY PERSONNEL. LETTERS IN REPLY FROM THE OFFICIALS AND ATTORNEYS MENTIONED ABOVE SHALL BE DELIVERED TO THE RECIPIENT WITHOUT EXAMINATION BY FACILITY PERSONNEL. ~~(G)~~

- h) ANY EMPLOYEE OR AGENT OF A PUBLIC AGENCY, ANY REPRESENTATIVE OF A COMMUNITY LEGAL SERVICES PROGRAM OR ANY MEMBER OF A COMMUNITY ORGANIZATION SHALL BE PERMITTED ACCESS AT REASONABLE HOURS TO ANY INDIVIDUAL RESIDENT OF ANY FACILITY, IF THE PURPOSE OF SUCH AGENCY, PROGRAM OR ORGANIZATION INCLUDES RENDERING ASSISTANCE TO RESIDENTS WITHOUT CHARGE, BUT ONLY IF THERE IS NETTHER A COMMERCIAL PURPOSE NOR

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## Section 350.3250(h) (continued)

AFFECT TO SUCH ACCESS AND IF THE PURPOSE IS TO DO ANY OF THE FOLLOWING:

- 1) VISIT, TALK WITH AND MAKE PERSONAL, SOCIAL, AND LEGAL SERVICES AVAILABLE TO ALL RESIDENTS; ~~(G)~~
- 2) INFORM RESIDENTS OF THEIR RIGHTS AND ENTITLEMENTS AND THEIR CORRESPONDING OBLIGATIONS, UNDER FEDERAL AND STATE LAWS, BY MEANS OF EDUCATIONAL MATERIALS AND DISCUSSIONS IN GROUPS AND WITH INDIVIDUAL RESIDENTS; ~~(G)~~
- 3) ASSIST RESIDENTS IN ASSERTING THEIR LEGAL RIGHTS REGARDING CLAIMS FOR PUBLIC ASSISTANCE, MEDICAL ASSISTANCE AND SOCIAL SECURITY BENEFITS AS WELL AS IN ALL OTHER MATTERS IN WHICH RESIDENTS ARE AGGRIEVED. ASSISTANCE MAY INCLUDE COUNSELING AND LITIGATION; OR ~~(G)~~
- 4) ENGAGE IN OTHER METHODS OF ASSERTING, ADVISING AND REPRESENTING RESIDENTS SO AS TO EXTEND TO THEM FULL ENJOYMENT OF THEIR RIGHTS. ~~(G)~~
- i) NO VISITOR SHALL ENTER THE IMMEDIATE LIVING AREA OF ANY RESIDENT WITHOUT FIRST IDENTIFYING HIMSELF AND THEN RECEIVING PERMISSION FROM THE RESIDENT TO ENTER. THE RIGHTS OF OTHER RESIDENTS PRESENT IN THE ROOM SHALL BE RESPECTED. (B-~~(G)~~)
- j) A RESIDENT MAY TERMINATE AT ANY TIME A VISIT BY A PERSON HAVING ACCESS TO THE RESIDENT'S LIVING AREA. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3260 Resident's Funds

- a) A RESIDENT SHALL BE PERMITTED TO MANAGE HIS OWN FINANCIAL AFFAIRS UNLESS HE OR HIS GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT, AUTHORIZES THE ADMINISTRATOR OF THE FACILITY IN WRITING TO MANAGE SUCH RESIDENT'S FINANCIAL AFFAIRS UNDER SUBSECTIONS (b) through (n) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-102)
- b) THE FACILITY SHALL AT THE TIME OF ADMISSION, PROVIDE, IN ORDER OF PRIORITY, EACH RESIDENT, OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, WITH A WRITTEN STATEMENT EXPLAINING THE RESIDENT'S



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## Section 350.3260(b) (continued)

RIGHTS REGARDING PERSONAL FUNDS AND LISTING THE SERVICES FOR WHICH THE RESIDENT WILL BE CHARGED, AND OBTAIN A SIGNED ACKNOWLEDGEMENT FROM EACH RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, THAT SUCH PERSON HAS RECEIVED THE STATEMENT. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(1))

c) THE FACILITY MAY ACCEPT FUNDS FROM A RESIDENT FOR SAFEKEEPING AND MANAGING, IF IT RECEIVES WRITTEN AUTHORIZATION FROM, IN ORDER OF PRIORITY, THE RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY; SUCH AUTHORIZATION SHALL BE ATTESTED TO BY A WITNESS WHO HAS NO PECUNIARY INTEREST IN THE FACILITY OR ITS OPERATIONS, AND WHO IS NOT CONNECTED IN ANY WAY TO FACILITY PERSONNEL OR THE ADMINISTRATOR IN ANY MANNER WHATSOEVER. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(2))

d) THE FACILITY SHALL MAINTAIN AND ALLOW, IN ORDER OF PRIORITY, EACH RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, ACCESS TO A WRITTEN RECORD OF ALL FINANCIAL ARRANGEMENTS AND TRANSACTIONS INVOLVING THE INDIVIDUAL RESIDENT'S FUNDS. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(3))

e) THE FACILITY SHALL PROVIDE, IN ORDER OF PRIORITY, EACH RESIDENT, OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, WITH A WRITTEN ITEMIZED STATEMENT AT LEAST QUARTERLY, OF ALL FINANCIAL TRANSACTIONS INVOLVING THE RESIDENT'S FUNDS. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(4))

f) THE FACILITY SHALL PURCHASE A SURETY BOND TO GUARANTEE THE SECURITY OF RESIDENT'S FUNDS. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(5))

g) THE FACILITY SHALL KEEP ANY FUNDS RECEIVED FROM A RESIDENT FOR SAFEKEEPING IN AN ACCOUNT SEPARATE FROM THE FACILITY'S FUNDS, AND SHALL AT NO TIME WITHDRAW ANY PART OR ALL OF SUCH FUNDS FOR ANY PURPOSE OTHER THAN TO RETURN THE FUNDS TO THE RESIDENT UPON THE REQUEST OF THE RESIDENT OR ANY OTHER PERSON ENTITLED TO MAKE SUCH REQUEST, TO PAY THE RESIDENT HIS ALLOWANCE, OR TO MAKE ANY OTHER PAYMENT AUTHORIZED BY THE RESIDENT OR ANY OTHER PERSON ENTITLED TO MAKE SUCH AUTHORIZATION. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(6))

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## Section 350.3260 (continued)

h) THE FACILITY SHALL DEPOSIT ANY FUNDS RECEIVED FROM A RESIDENT IN EXCESS OF \$100 IN AN INTEREST BEARING ACCOUNT INSURED BY AGENCIES OF, OR CORPORATIONS CHARTERED BY, THE STATE OR FEDERAL GOVERNMENT. THE ACCOUNT SHALL BE IN A FORM WHICH CLEARLY INDICATES THAT THE FACILITY HAS ONLY A FIDUCIARY INTEREST IN THE FUNDS AND ANY INTEREST FROM THE ACCOUNT SHALL ACCRUE TO THE RESIDENT. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(7))

i) THE FACILITY MAY KEEP UP TO \$100 OF A RESIDENT'S MONEY IN A NON-INTEREST BEARING ACCOUNT OR PETTY CASH FUND, TO BE READILY AVAILABLE FOR THE RESIDENT'S CURRENT EXPENDITURES. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(7))

j) THE FACILITY SHALL RETURN TO THE RESIDENT, OR THE PERSON WHO EXECUTED THE WRITTEN AUTHORIZATION REQUIRED IN SUBSECTION (c) OF THIS SECTION, UPON WRITTEN REQUEST, ALL OR ANY PART OF THE RESIDENT'S FUNDS GIVEN THE FACILITY FOR SAFEKEEPING, INCLUDING THE INTEREST ACCRUED FROM DEPOSITS. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(8))

k) THE FACILITY SHALL PLACE ANY MONTHLY ALLOWANCE TO WHICH A RESIDENT IS ENTITLED IN THAT RESIDENT'S PERSONAL ACCOUNT, OR GIVE IT TO THE RESIDENT, UNLESS THE FACILITY HAS WRITTEN AUTHORIZATION FROM THE RESIDENT OR THE RESIDENT'S GUARDIAN, OR IF THE RESIDENT IS A MINOR, HIS PARENT, TO HANDLE IT DIFFERENTLY. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(9))

l) UNLESS OTHERWISE PROVIDED BY STATE LAW, THE FACILITY SHALL UPON THE DEATH OF A RESIDENT PROVIDE THE EXECUTOR OR ADMINISTRATOR OF THE RESIDENT'S ESTATE WITH A COMPLETE ACCOUNTING OF ALL THE RESIDENT'S PERSONAL PROPERTY, INCLUDING ANY FUNDS OF THE RESIDENT BEING HELD BY THE FACILITY. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(10))

m) IF AN ADULT RESIDENT IS INCAPABLE OF MANAGING HIS FUNDS AND DOES NOT HAVE A RESIDENT'S REPRESENTATIVE, GUARDIAN, OR AN IMMEDIATE FAMILY MEMBER THE FACILITY SHALL NOTIFY THE OFFICE OF THE STATE GUARDIAN OF THE GUARDIANSHIP AND ADVOCACY COMMISSION. ~~(C)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(11))

n) IF THE FACILITY IS SOLD, THE SELLER SHALL PROVIDE THE BUYER WITH A WRITTEN VERIFICATION BY A PUBLIC ACCOUNTANT OF ALL RESIDENTS' MONIES AND PROPERTIES BEING TRANSFERRED, AND OBTAIN A SIGNED RECEIPT FROM

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## Section 350.3260(n) (continued)

THE NEW OWNER. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-201(12))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3270 Residents' Advisory Council

Each resident shall have the right to participate in a residents' advisory council as indicated in ~~regulations~~ Section 350.650(a) through (m). ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3280 Contract With Facility

Each resident shall have the right to contract with the facility as indicated in ~~regulations~~ Section 350.640(a) through (s). ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3290 Private Right of Action

- a) Each resident shall have the right to maintain a private right of action against a facility as described in ~~regulations~~ Section 350.3290(b) through (1).
- b) THE OWNER AND LICENSEE OF A FACILITY ARE LIABLE TO A RESIDENT FOR ANY INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF THEIR AGENTS OR EMPLOYEES WHICH INJURES THE RESIDENT.
- c) THE LICENSEE SHALL PAY THREE ~~(2)~~ TIMES THE ACTUAL DAMAGES, OR \$500, WHICHEVER IS GREATER, AND COSTS AND ATTORNEY'S FEES TO A FACILITY RESIDENT WHOSE RIGHTS AS SPECIFIED IN PART 1 OF ARTICLE II OF THE ACT ARE VIOLATED.
- d) A RESIDENT MAY MAINTAIN AN ACTION UNDER THIS ACT AND THESE REGULATIONS FOR ANY OTHER TYPE OF RELIEF, INCLUDING INJUNCTIVE AND DECLARATORY RELIEF, PERMITTED BY LAW.
- e) ANY DAMAGES RECOVERABLE UNDER REGULATIONS SECTION 350.3290(b) THROUGH (1), INCLUDING MINIMUM DAMAGES AS PROVIDED BY THESE REGULATIONS, MAY BE RECOVERED IN ANY ACTION WHICH A COURT MAY AUTHORIZE TO BE BROUGHT AS A CLASS ACTION PURSUANT TO THE CIVIL PRACTICE LAW (111. Rev. Stat.

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## Section 350.3290(e) (continued)

~~1981~~ 1987, ch. 110, pars. 2-801 through 2-806). THE REMEDIES PROVIDED IN SECTION 350.3290(b) THROUGH (1) ARE IN ADDITION TO AND CUMULATIVE WITH ANY OTHER LEGAL REMEDIES AVAILABLE TO A RESIDENT. EXHAUSTION OF ANY AVAILABLE ADMINISTRATIVE REMEDIES SHALL NOT BE REQUIRED PRIOR TO COMMENCEMENT OF A SUIT HEREUNDER.

f) THE AMOUNT OF DAMAGES RECOVERED BY A RESIDENT IN AN ACTION BROUGHT UNDER REGULATIONS SECTION 350.3290(b) THROUGH (1) SHALL BE EXEMPT FOR PURPOSES OF DETERMINING INITIAL OR CONTINUING ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER THE ILLINOIS PUBLIC AID CODE, (111. Rev. Stat. ~~1981~~ 1987, ch. 23, pars. 1-1 et seq.) AS NOW OR HEREAFTER AMENDED, AND SHALL NEITHER BE TAKEN INTO CONSIDERATION NOR REQUIRED TO BE APPLIED TOWARD THE PAYMENT OR PARTIAL PAYMENT OF THE COST OF MEDICAL CARE OR SERVICES AVAILABLE UNDER THE ILLINOIS PUBLIC AID CODE.

g) ANY WAIVER BY A RESIDENT OR HIS LEGAL REPRESENTATIVE OF THE RIGHT TO COMMENCE AN ACTION UNDER SECTION 350.3290(b) THROUGH (1), WHETHER ORAL OR IN WRITING, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT.

h) ANY PARTY TO AN ACTION BROUGHT UNDER SECTION 350.3290(b) THROUGH (1) SHALL BE ENTITLED TO A TRIAL BY JURY AND ANY WAIVER OF THE RIGHT TO A TRIAL BY JURY, WHETHER ORAL OR IN WRITING, PRIOR TO THE COMMENCEMENT OF AN ACTION, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT.

i) A LICENSEE OR ITS AGENTS OR EMPLOYEES SHALL NOT TRANSFER, DISCHARGE, EVICT, HARASS, DISMISS, OR RETALIATE AGAINST A RESIDENT, A RESIDENT'S REPRESENTATIVE, OR AN EMPLOYEE OR AGENT WHO MAKES A REPORT OF RESIDENT ABUSE OR NEGLECT, BRINGS OR TESTIFIES IN A PRIVATE RIGHT OF ACTION, OR FILES A COMPLAINT, BECAUSE OF THE SUCH ACTION OR TESTIMONY. (~~B-1-G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3300 Transfer and/or Discharge

a) A RESIDENT MAY BE VOLUNTARILY DISCHARGED FROM A FACILITY AFTER HE GIVES THE ADMINISTRATOR, A PHYSICIAN, OR A NURSE OF THE FACILITY WRITTEN NOTICE OF HIS DESIRE TO BE DISCHARGED. IF A GUARDIAN HAS BEEN APPOINTED FOR A RESIDENT OR IF THE RESIDENT IS A MINOR, THE RESIDENT SHALL BE DISCHARGED UPON WRITTEN CONSENT OF HIS GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT UNLESS THERE IS A COURT ORDER TO THE CONTRARY. IN SUCH CASES, UPON THE RESIDENT'S DISCHARGE, THE



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Section 350.3300(a) (continued)

FACILITY IS RELIEVED FROM ANY RESPONSIBILITY FOR THE RESIDENT'S CARE, SAFETY OR WELL-BEING. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-111) ~~(G)~~

b) Each resident's rights regarding involuntary transfer or discharge from a facility shall be as described in subsections (c) through (y) of this Section.

c) Reasons for Transfer or Discharge

1) A FACILITY MAY INVOLUNTARY TRANSFER OR DISCHARGE A RESIDENT ONLY FOR ONE OR MORE OF THE FOLLOWING REASONS: ~~SHALL NOT INVOLUNTARILY TRANSFER OR DISCHARGE A RESIDENT EXCEPT~~

- A) FOR MEDICAL REASONS. ~~1~~
- B) FOR THE RESIDENT'S PHYSICAL SAFETY. ~~OR~~
- C) FOR THE PHYSICAL SAFETY OF OTHER RESIDENTS, THE FACILITY STAFF OR FACILITY VISITORS. ~~OR~~
- D) FOR EITHER LATE PAYMENT OR NONPAYMENT FOR THE RESIDENT'S STAY, EXCEPT AS PROHIBITED BY TITLE XVIII AND XIX OF THE FEDERAL SOCIAL SECURITY ACT. FOR PURPOSES OF THIS SECTION, "LATE PAYMENT" MEANS NON-RECEIPT OF PAYMENT AFTER SUBMISSION OF A BILL. IF PAYMENT IS NOT RECEIVED WITHIN 45 DAYS AFTER SUBMISSION OF A BILL, THE FACILITY MAY SEND A NOTICE TO THE RESIDENT AND RESPONSIBLE PARTY REQUESTING PAYMENT WITHIN 30 DAYS. IF PAYMENT IS NOT RECEIVED WITHIN SUCH 30 DAYS, THE FACILITY MAY THEREUPON INSTITUTE TRANSFER OR DISCHARGE PROCEEDINGS BY SENDING A NOTICE OF TRANSFER OR DISCHARGE TO THE RESIDENT AND RESPONSIBLE PARTY BY REGISTERED OR CERTIFIED MAIL. THE NOTICE SHALL STATE, IN ADDITION TO THE REQUIREMENTS OF SECTION 3-403 OF THE ACT and subsection (e) of this Section, THAT THE RESPONSIBLE PARTY HAS THE RIGHT TO PAY THE AMOUNT OF THE BILL IN FULL UP TO THE DATE THE TRANSFER OR DISCHARGE IS TO BE MADE AND THEN THE RESIDENT SHALL HAVE THE RIGHT TO REMAIN IN THE FACILITY. SUCH PAYMENT SHALL TERMINATE THE TRANSFER OR DISCHARGE PROCEEDINGS. THIS SUBSECTION DOES NOT APPLY TO THOSE RESIDENTS WHOSE CARE IS PROVIDED UNDER THE ILLINOIS PUBLIC AID CODE. (B ~~AND C~~) (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-401)

2) Prohibition of Discrimination

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Section 350.3300(c)(2) (continued)

~~1~~ A) A FACILITY PARTICIPATING IN THE MEDICAL ASSISTANCE PROGRAM IS PROHIBITED FROM FAILING OR REFUSING TO RETAIN AS A RESIDENT ANY PERSON BECAUSE THE RESIDENT IS A RECIPIENT OF OR AN APPLICANT FOR THE MEDICAL ASSISTANCE PROGRAM. FOR THE PURPOSES OF THIS SECTION, A RECIPIENT OR APPLICANT SHALL BE CONSIDERED A RESIDENT IN THE FACILITY DURING ANY HOSPITAL STAY TOTALING TEN DAYS OR LESS FOLLOWING A HOSPITAL ADMISSION. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-401.1(a)).

~~2~~ B) A FACILITY WHICH VIOLATES SUBSECTION (C)(2)(A) ~~(1)~~ OF THIS SECTION SHALL BE GUILTY OF A BUSINESS OFFENSE AND FINED NOT LESS THAN \$500 NOR MORE THAN \$1,000 FOR THE FIRST OFFENSE AND NOT LESS THAN \$1,000 NOR MORE THAN \$5,000 FOR EACH SUBSEQUENT OFFENSE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-401.1(b))

d) INVOLUNTARY TRANSFER OR DISCHARGE OF A RESIDENT FROM A FACILITY SHALL BE PRECEDED BY THE DISCUSSION REQUIRED UNDER SUBSECTION (j) OF THIS SECTION AND BY A MINIMUM WRITTEN NOTICE OF 21 DAYS. THE 21-DAY REQUIREMENT SHALL NOT APPLY IN ANY OF THE FOLLOWING INSTANCES:

- 1) WHEN AN EMERGENCY TRANSFER OR DISCHARGE IS MANDATED BY THE RESIDENT'S HEALTH CARE NEEDS AND IS IN ACCORD WITH THE WRITTEN ORDERS AND MEDICAL JUSTIFICATION OF THE ATTENDING PHYSICIAN; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-402(a))
- 2) WHEN THE TRANSFER OR DISCHARGE IS MANDATED BY THE PHYSICAL SAFETY OF OTHER RESIDENTS AS DOCUMENTED IN THE CLINICAL RECORD. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-402(b))

e) THE NOTICE REQUIRED BY SUBSECTION (d) OF THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND SHALL CONTAIN ALL OF THE FOLLOWING:

- 1) THE STATED REASON FOR THE PROPOSED TRANSFER OR DISCHARGE; ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(a))
- 2) THE EFFECTIVE DATE OF THE PROPOSED TRANSFER OR DISCHARGE; ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(b))

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## Section 350.3300(e) (continued)

- 3) A STATEMENT IN NOT LESS THAN 12-POINT TYPE, WHICH READS: "YOU HAVE A RIGHT TO APPEAL THE FACILITY'S DECISION TO TRANSFER OR DISCHARGE YOU. IF YOU THINK YOU SHOULD NOT HAVE TO LEAVE THIS FACILITY, YOU MAY FILE A REQUEST FOR A HEARING WITH THE DEPARTMENT OF PUBLIC HEALTH WITHIN ~~10~~ TEN DAYS AFTER RECEIVING THIS NOTICE. IF YOU REQUEST A HEARING, IT WILL BE HELD NOT LATER THAN TEN ~~40~~ DAYS AFTER YOUR REQUEST, AND YOU GENERALLY WILL NOT BE TRANSFERRED OR DISCHARGED DURING THAT TIME. IF THE DECISION FOLLOWING THE HEARING IS NOT IN YOUR FAVOR, YOU GENERALLY WILL NOT BE TRANSFERRED OR DISCHARGED PRIOR TO THE EXPIRATION OF 30 DAYS FOLLOWING RECEIPT OF THE ORIGINAL NOTICE OF THE TRANSFER OR DISCHARGE. A FORM TO APPEAL THE FACILITY'S DECISION AND TO REQUEST A HEARING IS ATTACHED. IF YOU HAVE ANY QUESTIONS, CALL THE DEPARTMENT OF PUBLIC HEALTH AT THE TELEPHONE NUMBER LISTED BELOW." ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(c))
- 4) A HEARING REQUEST FORM, TOGETHER WITH A POSTAGE PAID, PREADDRESSED ENVELOPE TO THE DEPARTMENT; AND ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(d))
- 5) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON CHARGED WITH THE RESPONSIBILITY OF SUPERVISING THE TRANSFER OR DISCHARGE. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(e))
- f) A REQUEST FOR A HEARING MADE UNDER SUBSECTION (e) OF THIS SECTION SHALL STAY A TRANSFER PENDING A HEARING OR APPEAL OF THE DECISION, UNLESS A CONDITION WHICH WOULD HAVE ALLOWED TRANSFER OR DISCHARGE IN LESS THAN 21 DAYS AS DESCRIBED UNDER SUBSECTIONS (d)(1) AND (2) OF THIS SECTION DEVELOPS IN THE INTERIM. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-404)
- g) A COPY OF THE NOTICE REQUIRED BY SUBSECTION (d) OF THIS SECTION SHALL BE PLACED IN THE RESIDENT'S CLINICAL RECORD AND A COPY SHALL BE TRANSMITTED TO THE DEPARTMENT, THE RESIDENT, THE RESIDENT'S REPRESENTATIVE, AND, IF THE RESIDENT'S CARE IS PAID FOR IN WHOLE OR PART THROUGH TITLE XIX, TO THE DEPARTMENT OF PUBLIC AID. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-405)
- h) WHEN THE BASIS FOR AN INVOLUNTARY TRANSFER OR DISCHARGE IS THE RESULT OF AN ACTION BY THE DEPARTMENT OF PUBLIC AID WITH RESPECT TO A RECIPIENT OF TITLE XIX AND A HEARING REQUEST IS FILED WITH THE DEPARTMENT OF PUBLIC AID, THE 21-DAY WRITTEN NOTICE PERIOD SHALL NOT BEGIN UNTIL A FINAL DECISION IN THE MATTER IS RENDERED BY THE

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## NOTICE OF PROPOSED AMENDMENTS

## Section 350.3300(h) (continued)

- DEPARTMENT OF PUBLIC AID OR A COURT OF COMPETENT JURISDICTION AND NOTICE OF THAT FINAL DECISION IS RECEIVED BY THE RESIDENT AND THE FACILITY. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-406)
- i) WHEN NONPAYMENT IS THE BASIS FOR INVOLUNTARY TRANSFER OR DISCHARGE, THE RESIDENT SHALL HAVE THE RIGHT TO REDEEM UP TO THE DATE THAT THE DISCHARGE OR TRANSFER IS TO BE MADE AND THEN SHALL HAVE THE RIGHT TO REMAIN IN THE FACILITY. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-407)
  - j) THE PLANNED INVOLUNTARY TRANSFER OR DISCHARGE SHALL BE DISCUSSED WITH THE RESIDENT, THE RESIDENT'S REPRESENTATIVE AND PERSON OR AGENCY RESPONSIBLE FOR THE RESIDENT'S PLACEMENT, MAINTENANCE, AND CARE IN THE FACILITY. THE EXPLANATION AND DISCUSSION OF THE REASONS FOR INVOLUNTARY TRANSFER OR DISCHARGE SHALL INCLUDE THE FACILITY ADMINISTRATOR OR OTHER APPROPRIATE FACILITY REPRESENTATIVE AS THE ADMINISTRATOR'S DESIGNEE. THE CONTENT OF THE DISCUSSION AND EXPLANATION SHALL BE SUMMARIZED IN WRITING AND SHALL INCLUDE THE NAMES OF THE INDIVIDUALS INVOLVED IN THE DISCUSSIONS AND MADE A PART OF THE RESIDENT'S CLINICAL RECORD. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-408)
  - k) THE FACILITY SHALL OFFER THE RESIDENT COUNSELING SERVICES BEFORE THE TRANSFER OR DISCHARGE OF THE RESIDENT. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-409)
  - l) A RESIDENT SUBJECT TO INVOLUNTARY TRANSFER OR DISCHARGE FROM A FACILITY, THE RESIDENT'S GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT SHALL HAVE THE OPPORTUNITY TO FILE A REQUEST FOR A HEARING WITH THE DEPARTMENT WITHIN 10 DAYS FOLLOWING RECEIPT OF THE WRITTEN NOTICE OF THE INVOLUNTARY TRANSFER OR DISCHARGE BY THE FACILITY. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-410)
  - m) THE DEPARTMENT OF PUBLIC HEALTH, WHEN THE BASIS FOR INVOLUNTARY TRANSFER OR DISCHARGE IS OTHER THAN ACTION BY THE DEPARTMENT OF PUBLIC AID WITH RESPECT TO THE TITLE XIX MEDICAID RECIPIENT, SHALL HOLD A HEARING AT THE RESIDENT'S FACILITY NOT LATER THAN TEN ~~10~~ DAYS AFTER A HEARING REQUEST IS FILED, AND RENDER A DECISION WITHIN 14 DAYS AFTER THE FILING OF THE HEARING REQUEST. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-411)
  - n) THE HEARING BEFORE THE DEPARTMENT PROVIDED UNDER SUBSECTION (m) OF THIS SECTION SHALL BE CONDUCTED AS PRESCRIBED UNDER SECTIONS 3-703 THRU 3-712 OF THE ACT (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-703 through 4153-712). IN DETERMINING WHETHER A TRANSFER



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## Section 350.3300(n) (continued)

OR DISCHARGE IS AUTHORIZED, THE BURDEN OF PROOF IN THIS HEARING RESTS ON THE PERSON REQUESTING THE TRANSFER OR DISCHARGE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-412)

- o) IF THE DEPARTMENT DETERMINES THAT A TRANSFER OR DISCHARGE IS AUTHORIZED UNDER SUBSECTION (c) OF THIS SECTION, THE RESIDENT SHALL NOT BE REQUIRED TO LEAVE THE FACILITY BEFORE THE 34th DAY FOLLOWING RECEIPT OF THE NOTICE REQUIRED UNDER SUBSECTION (d) OF THIS SECTION, OR THE ~~10th~~ TENTH DAY FOLLOWING RECEIPT OF THE DEPARTMENT'S DECISION, WHICHEVER IS LATER, UNLESS A CONDITION WHICH WOULD HAVE ALLOWED TRANSFER OR DISCHARGE IN LESS THAN 21 DAYS AS DESCRIBED UNDER SUBSECTIONS (d)(1) AND (2) OF THIS SECTION DEVELOPS IN THE INTERIM. (B-~~6~~-C) (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-413)
- p) THE DEPARTMENT OF PUBLIC AID SHALL CONTINUE TITLE XIX MEDICAID FUNDING DURING THE APPEAL, TRANSFER, OR DISCHARGE PERIOD FOR THOSE RESIDENTS WHO ARE TITLE XIX RECIPIENTS AFFECTED BY SUBSECTION (c) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-414)
- q) THE DEPARTMENT MAY TRANSFER OR DISCHARGE ANY RESIDENT FROM ANY FACILITY REQUIRED TO BE LICENSED UNDER THIS ACT WHEN ANY OF THE FOLLOWING CONDITIONS EXIST:
- 1) SUCH FACILITY IS OPERATING WITHOUT A LICENSE; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(a))
  - 2) THE DEPARTMENT HAS SUSPENDED, REVOKED OR REFUSED TO RENEW THE LICENSE OF THE FACILITY AS PROVIDED UNDER SECTION 3-119 OF THE ACT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(b))
  - 3) THE FACILITY HAS REQUESTED THE AID OF THE DEPARTMENT IN THE TRANSFER OR DISCHARGE OF THE RESIDENT AND THE DEPARTMENT FINDS THAT THE RESIDENT CONSENTS TO TRANSFER OR DISCHARGE; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(c))
  - 4) THE FACILITY IS CLOSING OR INTENDS TO CLOSE AND ADEQUATE ARRANGEMENT FOR RELOCATION OF THE RESIDENT HAS NOT BEEN MADE AT LEAST 30 DAYS PRIOR TO CLOSURE; OR (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(d))
  - 5) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS WHICH REQUIRES IMMEDIATE TRANSFER OR DISCHARGE OF THE RESIDENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(e))

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## Section 350.3300 (continued)

- r) IN DECIDING TO TRANSFER OR DISCHARGE A RESIDENT FROM A FACILITY UNDER SUBSECTION (q) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER THE LIKELIHOOD OF SERIOUS HARM WHICH MAY RESULT IF THE RESIDENT REMAINS IN THE FACILITY. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-416)
- s) THE DEPARTMENT SHALL OFFER TRANSFER OR DISCHARGE AND RELOCATION ASSISTANCE TO RESIDENTS TRANSFERRED OR DISCHARGED UNDER SUBSECTIONS (c) THROUGH (q) OF THIS SECTION INCLUDING INFORMATION ON AVAILABLE ALTERNATIVE PLACEMENTS. RESIDENTS SHALL BE INVOLVED IN PLANNING THE TRANSFER OR DISCHARGE AND SHALL CHOOSE AMONG THE AVAILABLE ALTERNATIVE PLACEMENTS, EXCEPT THAT WHERE AN EMERGENCY MAKES PRIOR RESIDENT INVOLVEMENT IMPOSSIBLE, THE DEPARTMENT MAY MAKE A TEMPORARY PLACEMENT UNTIL A FINAL PLACEMENT CAN BE ARRANGED. RESIDENTS MAY CHOOSE THEIR FINAL ALTERNATIVE PLACEMENT AND SHALL BE GIVEN ASSISTANCE IN TRANSFERRING TO SUCH PLACE. NO RESIDENT MAY BE FORCED TO REMAIN IN A TEMPORARY OR PERMANENT PLACEMENT. WHERE THE DEPARTMENT MAKES OR PARTICIPATES IN MAKING THE RELOCATION DECISION, CONSIDERATION SHALL BE GIVEN TO PROXIMITY TO THE RESIDENT'S RELATIVES AND FRIENDS. THE RESIDENT SHALL BE ALLOWED ~~3~~ THREE VISITS TO POTENTIAL ALTERNATIVE PLACEMENTS PRIOR TO REMOVAL, EXCEPT WHERE MEDICALLY CONTRAINDICATED OR WHERE THE NEED FOR IMMEDIATE TRANSFER OR DISCHARGE REQUIRES REDUCTION IN THE NUMBER OF VISITS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-417)
- t) THE DEPARTMENT SHALL PREPARE RESIDENT TRANSFER OR DISCHARGE PLANS TO ASSURE SAFE AND ORDERLY REMOVALS AND PROTECT RESIDENTS' HEALTH, SAFETY, WELFARE AND RIGHTS. IN NONEMERGENCIES AND WHERE POSSIBLE IN EMERGENCIES, THE DEPARTMENT SHALL DESIGN AND IMPLEMENT SUCH PLANS IN ADVANCE OF TRANSFER OR DISCHARGE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-418)
- u) THE DEPARTMENT MAY PLACE RELOCATION TEAMS IN ANY FACILITY FROM WHICH RESIDENTS ARE BEING DISCHARGED OR TRANSFERRED FOR ANY REASON, FOR THE PURPOSE OF IMPLEMENTING TRANSFER OR DISCHARGE PLANS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-419)
- v) IN ANY TRANSFER OR DISCHARGE CONDUCTED UNDER SUBSECTIONS (q) THROUGH (t) OF THIS SECTION THE DEPARTMENT SHALL:
- 1) PROVIDE WRITTEN NOTICE TO THE FACILITY PRIOR TO THE TRANSFER OR DISCHARGE. THE NOTICE SHALL STATE THE BASIS FOR THE ORDER OF TRANSFER OR DISCHARGE AND SHALL INFORM THE FACILITY OF ITS RIGHT TO AN INFORMAL CONFERENCE PRIOR TO TRANSFER OR DISCHARGE UNDER THIS SECTION, AND ITS RIGHT TO A SUBSEQUENT HEARING UNDER

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## Section 350.3300(v)(1) (continued)

SUBSECTION (x) OF THIS SECTION. IF A FACILITY DESIRES TO CONTEST A NONEMERGENCY TRANSFER OR DISCHARGE, PRIOR TO TRANSFER OR DISCHARGE IT SHALL, WITHIN FOUR ~~(4)~~ WORKING DAYS AFTER RECEIPT OF THE NOTICE, SEND A WRITTEN REQUEST FOR AN INFORMAL CONFERENCE TO THE DEPARTMENT. THE DEPARTMENT SHALL, WITHIN FOUR ~~(4)~~ WORKING DAYS FROM THE RECEIPT OF THE REQUEST, HOLD AN INFORMAL CONFERENCE IN THE COUNTY IN WHICH THE FACILITY IS LOCATED. FOLLOWING THIS CONFERENCE, THE DEPARTMENT MAY AFFIRM, MODIFY OR OVERRULE ITS PREVIOUS DECISION. EXCEPT IN AN EMERGENCY, TRANSFER OR DISCHARGE MAY NOT BEGIN UNTIL THE PERIOD FOR REQUESTING A CONFERENCE HAS PASSED OR, IF A CONFERENCE IS REQUESTED, UNTIL AFTER A CONFERENCE HAS BEEN HELD; AND (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-420(a))

- 2) PROVIDE WRITTEN NOTICE TO ANY RESIDENT TO BE REMOVED, TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE, PRIOR TO THE REMOVAL. THE NOTICE SHALL STATE THE REASON FOR WHICH TRANSFER OR DISCHARGE IS ORDERED AND SHALL INFORM THE RESIDENT OF THE RESIDENT'S RIGHT TO CHALLENGE THE TRANSFER OR DISCHARGE UNDER SUBSECTION (x) OF THIS SECTION. THE DEPARTMENT SHALL HOLD AN INFORMAL CONFERENCE WITH THE RESIDENT OR THE RESIDENT'S REPRESENTATIVE PRIOR TO TRANSFER OR DISCHARGE AT WHICH THE RESIDENT OR THE REPRESENTATIVE MAY PRESENT ANY OBJECTIONS TO THE PROPOSED TRANSFER OR DISCHARGE PLAN OR ALTERNATIVE PLACEMENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-420(b))

- w) IN ANY TRANSFER OR DISCHARGE CONDUCTED UNDER SUBSECTION (q)(5) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE FACILITY AND ANY RESIDENT TO BE REMOVED THAT AN EMERGENCY HAS BEEN FOUND TO EXIST AND REMOVAL HAS BEEN ORDERED, AND SHALL INVOLVE THE RESIDENTS IN REMOVAL PLANNING IF POSSIBLE. FOLLOWING EMERGENCY REMOVAL, THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO THE FACILITY, TO THE RESIDENT, TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE, OF THE BASIS FOR THE FINDING THAT AN EMERGENCY EXISTED AND OF THE RIGHT TO CHALLENGE REMOVAL UNDER SUBSECTION (x) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-421)

- x) WITHIN ~~10~~ TEN DAYS FOLLOWING TRANSFER OR DISCHARGE, THE FACILITY OR ANY RESIDENT TRANSFERRED OR DISCHARGED MAY SEND A WRITTEN REQUEST TO THE DEPARTMENT FOR A HEARING UNDER SECTION 3-703 OF THE ACT (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-703) TO CHALLENGE THE TRANSFER OR DISCHARGE. THE DEPARTMENT SHALL HOLD THE HEARING WITHIN 30 DAYS OF RECEIPT OF THE REQUEST. WHERE A CHALLENGE IS BY A

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## Section 350.3300(x) (continued)

RESIDENT, THE HEARING SHALL BE HELD AT A LOCATION CONVENIENT TO THE RESIDENT. IF THE FACILITY PREVAILS, IT MAY FILE A CLAIM AGAINST THE STATE UNDER THE "COURT OF CLAIMS ACT" FOR PAYMENTS LOSS LESS EXPENSES SAVED AS A RESULT OF THE TRANSFER OR DISCHARGE. NO RESIDENT TRANSFERRED OR DISCHARGED MAY BE HELD LIABLE FOR THE CHARGE FOR CARE WHICH WOULD HAVE BEEN MADE HAD THE RESIDENT REMAINED IN THE FACILITY. IF A RESIDENT PREVAILS, THE RESIDENT MAY FILE A CLAIM AGAINST THE STATE UNDER THE "COURT OF CLAIMS ACT" (Ill. Rev. Stat. ~~1985~~ 1987, ch. 37, pars. 439.1 et seq.) FOR ANY EXCESS EXPENSES DIRECTLY CAUSED BY THE ORDER TO TRANSFER OR DISCHARGE. THE DEPARTMENT SHALL ASSIST THE RESIDENT IN RETURNING TO THE FACILITY IF ASSISTANCE IS REQUESTED. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-422)

- y) ANY OWNER OF A FACILITY LICENSED UNDER THIS ACT SHALL GIVE 90 DAYS NOTICE PRIOR TO VOLUNTARILY CLOSING A FACILITY OR CLOSING ANY PART OF A FACILITY, OR PRIOR TO CLOSING ANY PART OF A FACILITY IF CLOSING SUCH PART WILL REQUIRE THE TRANSFER OR DISCHARGE OF MORE THAN ~~10%~~ TEN PERCENT OF THE RESIDENTS. SUCH NOTICE SHALL BE GIVEN TO THE DEPARTMENT. TO ANY RESIDENT WHO MUST BE TRANSFERRED OR DISCHARGED, TO THE RESIDENT'S REPRESENTATIVE, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE. NOTICE SHALL STATE THE PROPOSED DATE OF CLOSING AND THE REASON FOR CLOSING. THE FACILITY SHALL OFFER TO ASSIST THE RESIDENT IN SECURING AN ALTERNATIVE PLACEMENT AND SHALL ADVISE THE RESIDENT ON AVAILABLE ALTERNATIVES. WHERE THE RESIDENT IS UNABLE TO CHOOSE AN ALTERNATE PLACEMENT AND IS NOT UNDER GUARDIANSHIP, THE DEPARTMENT SHALL BE NOTIFIED OF THE NEED FOR RELOCATION ASSISTANCE. THE FACILITY SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS UNTIL THE DATE OF CLOSING, INCLUDING THOSE RELATED TO TRANSFER OR DISCHARGE OF RESIDENTS. THE DEPARTMENT MAY PLACE A RELOCATION TEAM IN THE FACILITY AS PROVIDED UNDER SUBSECTION (u) OF THIS SECTION. (A, B ~~1985~~ 1987, ch. 111 1/2, par. 4153-423)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3310 Complaint Procedures

- a) A RESIDENT SHALL BE PERMITTED TO PRESENT GRIEVANCES ON BEHALF OF HIMSELF AND OTHERS TO THE ADMINISTRATOR, THE LONG-TERM CARE FACILITY ADVISORY BOARD, THE RESIDENTS' ADVISORY COUNCIL, STATE GOVERNMENTAL AGENCIES OR OTHER PERSONS WITHOUT THREAT OF DISCHARGE OR REPRISAL IN ANY FORM OF MANNER WHATSOEVER. ~~4C~~



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## Section 350.3310 (continued)

- b) THE FACILITY ADMINISTRATOR SHALL PROVIDE ALL RESIDENTS OR THEIR REPRESENTATIVES WITH THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE APPROPRIATE STATE GOVERNMENTAL OFFICE WHERE COMPLAINTS MAY BE LODGED. ~~(6)~~
- c) A PERSON WHO BELIEVES THAT THE ACT OR A RULE PROMULGATED UNDER THE ACT MAY HAVE BEEN VIOLATED MAY REQUEST AN INVESTIGATION. THE REQUEST MAY BE SUBMITTED TO THE DEPARTMENT IN WRITING, BY TELEPHONE, OR BY PERSONAL VISIT. AN ORAL COMPLAINT SHALL BE REDUCED TO WRITING BY THE DEPARTMENT.
- d) THE SUBSTANCE OF THE COMPLAINT SHALL BE PROVIDED TO THE LICENSEE, OWNER OR ADMINISTRATOR NO EARLIER THAN AT THE COMMENCEMENT OF THE ON-SITE INSPECTION OF THE FACILITY WHICH TAKES PLACE PURSUANT TO THE COMPLAINT.
- e) THE DEPARTMENT SHALL NOT DISCLOSE THE NAME OF THE COMPLAINANT UNLESS THE COMPLAINANT OR RESIDENT CONSENTS IN WRITING TO THE DISCLOSURE OR THE INVESTIGATION RESULTS IN A JUDICIAL PROCEEDING, OR UNLESS DISCLOSURE IS ESSENTIAL TO THE INVESTIGATION. THE COMPLAINANT SHALL BE GIVEN THE OPPORTUNITY TO WITHDRAW THE COMPLAINT BEFORE DISCLOSURE. UPON THE REQUEST OF THE COMPLAINANT, THE DEPARTMENT MAY PERMIT THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT TO ACCOMPANY THE PERSON MAKING THE ON-SITE INSPECTION OF THE FACILITY.
- f) UPON RECEIPT OF A COMPLAINT, THE DEPARTMENT SHALL DETERMINE WHETHER THE ACT OR A RULE PROMULGATED UNDER THE ACT HAS BEEN OR IS BEING VIOLATED. THE DEPARTMENT SHALL INVESTIGATE ALL COMPLAINTS ALLEGING ABUSE OR NEGLECT WITHIN ~~7~~ SEVEN DAYS AFTER THE RECEIPT OF THE COMPLAINT EXCEPT THE COMPLAINTS OF ABUSE OR NEGLECT WHICH INDICATE THAT A RESIDENT'S LIFE OR SAFETY IS IN IMMINENT DANGER SHALL BE INVESTIGATED WITH 24 HOURS AFTER RECEIPT OF THE COMPLAINT. ALL OTHER COMPLAINTS SHALL BE INVESTIGATED WITHIN 30 DAYS AFTER THE RECEIPT OF THE COMPLAINT. ALL COMPLAINTS SHALL BE CLASSIFIED AS "VALID" OR "INVALID". FOR ANY COMPLAINT CLASSIFIED AS "VALID", THE DEPARTMENT MUST DETERMINE WITHIN 30 WORKING DAYS IF ANY RULE OR PROVISION OF THIS ACT HAS BEEN OR IS BEING VIOLATED.
- g) UPON THE REQUEST OF A RESIDENT OR COMPLAINANT, THE DEPARTMENT MAY PERMIT THE RESIDENT OR COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT TO ACCOMPANY THE PERSON MAKING THE ON-SITE INSPECTION OF THE FACILITY PURSUANT TO THE COMPLAINT.
- h) IN ALL CASES, THE DEPARTMENT SHALL INFORM THE COMPLAINANT OF ITS FINDINGS WITHIN ~~10~~ TEN DAYS OF ITS DETERMINATION UNLESS OTHERWISE

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## Section 350.3310(h) (continued)

INDICATED BY THE COMPLAINANT, AND THE COMPLAINANT MAY DIRECT THE DEPARTMENT TO SEND A COPY OF SUCH FINDINGS TO ANOTHER PERSON. THE DEPARTMENT'S FINDINGS MAY INCLUDE CONTENTS OF DOCUMENTATION PROVIDED BY EITHER THE COMPLAINANT OR THE LICENSEE PERTAINING TO THE COMPLAINT. THE DEPARTMENT SHALL ALSO NOTIFY THE FACILITY OF SUCH FINDINGS WITHIN ~~10~~ TEN DAYS OF THE DETERMINATION, BUT THE NAME OF THE COMPLAINANT OR RESIDENTS SHALL NOT BE DISCLOSED IN THIS NOTICE TO THE FACILITY. THE NOTICE OF SUCH FINDINGS SHALL INCLUDE A COPY OF THE WRITTEN DETERMINATION; THE CORRECTION ORDER, IF ANY; THE INSPECTION REPORT; OR WARNING NOTICE, IF ANY; AND THE STATE LICENSEURE ON WHICH THE VIOLATION IS LISTED.

- 1) A WRITTEN DETERMINATION, CORRECTION ORDER, OR WARNING NOTICE CONCERNING A COMPLAINT SHALL BE AVAILABLE FOR PUBLIC INSPECTION, BUT THE NAME OF THE COMPLAINANT OR RESIDENT SHALL NOT BE DISCLOSED WITHOUT HIS CONSENT.
- j) A COMPLAINANT WHO IS DISSATISFIED WITH THE DETERMINATION OR INVESTIGATION BY THE DEPARTMENT MAY REQUEST A HEARING UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~. THE FACILITY SHALL BE GIVEN NOTICE OF ANY SUCH HEARING AND MAY PARTICIPATE IN THE HEARING AS A PARTY. IF A FACILITY REQUESTS A HEARING UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~ WHICH CONCERNS A MATTER COVERED BY A COMPLAINT, THE COMPLAINANT SHALL BE GIVEN WRITTEN NOTICE AND MAY PARTICIPATE IN THE HEARING AS A PARTY. A REQUEST FOR A HEARING BY EITHER A COMPLAINANT OR A FACILITY SHALL BE SUBMITTED IN WRITING TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE MAILING OF THE DEPARTMENT'S FINDINGS AS DESCRIBED IN SUBSECTION (h) OF THIS SECTION ~~ABOVE~~. UPON RECEIPT OF THE REQUEST THE DEPARTMENT SHALL CONDUCT A HEARING AS PROVIDED UNDER SUBSECTION (j) OF THIS SECTION ~~ABOVE~~.
- k) ANY PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT OF A FACILITY RENDERED IN A PARTICULAR CASE WHICH AFFECTS THE LEGAL RIGHTS, DUTIES OR PRIVILEGES CREATED UNDER THIS ACT MAY HAVE SUCH DECISION REVIEWED IN ACCORDANCE WITH SECTIONS 3-703 THRU 3-712 OF THE ACT.
- 1) When the Department finds that a provision of Article II of the Act regarding residents' rights has been violated with regard to a particular resident, the Department shall issue an order requiring the facility to reimburse the resident for injuries incurred, or \$100, whichever is greater.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 350.3320 Confidentiality

a) THE DEPARTMENT, THE FACILITY AND ALL OTHER PUBLIC OR PRIVATE AGENCIES SHALL RESPECT THE CONFIDENTIALITY OF A RESIDENT'S RECORD AND SHALL NOT DIVULGE OR DISCLOSE THE CONTENTS OF A RECORD IN A MANNER WHICH IDENTIFIES A RESIDENT, EXCEPT UPON A RESIDENT'S DEATH TO A RELATIVE OR GUARDIAN, OR UNDER JUDICIAL PROCEEDINGS. THIS REGULATION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF A RESIDENT OR A RESIDENT'S REPRESENTATIVE TO INSPECT OR COPY THE RESIDENT'S RECORDS.

b) CONFIDENTIAL MEDICAL, SOCIAL, PERSONAL, OR FINANCIAL INFORMATION IDENTIFYING A RESIDENT SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION IN A MANNER WHICH IDENTIFIES A RESIDENT. (B-~~1-6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3330 Facility Implementation

a) THE FACILITY SHALL ESTABLISH WRITTEN POLICIES AND PROCEDURES TO IMPLEMENT THE RESPONSIBILITIES AND RIGHTS PROVIDED IN ARTICLE II OF THE ACT. THE POLICIES SHALL INCLUDE THE PROCEDURE FOR THE INVESTIGATION AND RESOLUTION OF RESIDENT COMPLAINTS UNDER THE ACT. THE POLICIES SHALL BE CLEAR AND UNAMBIGUOUS AND SHALL BE AVAILABLE FOR INSPECTION BY ANY PERSON. A SUMMARY OF THE POLICIES AND PROCEDURES, PRINTED IN NOT LESS THAN 12 POINT TYPE, SHALL BE DISTRIBUTED TO EACH RESIDENT AND REPRESENTATIVE. (C-~~6~~)

b) The facility shall provide copies of these policies and procedures upon request to next of kin, sponsoring agencies representative payees and the public. (C-~~6~~)

c) EACH RESIDENT SHALL BE GIVEN A WRITTEN SUMMARY OF ALL THE RIGHTS ENUMERATED IN PART I OF ARTICLE II OF THE ACT AT THE TIME OF ADMISSION TO A FACILITY OR AS SOON THEREAFTER AS THE CONDITION OF THIS RESIDENT PERMITS. AT THE TIME OF IMPLEMENTATION OF THE ACT EACH RESIDENT SHALL BE GIVEN A WRITTEN SUMMARY OF ALL THE RIGHTS ENUMERATED IN PART I OF ARTICLE II OF THE ACT. IF A RESIDENT IS UNABLE TO READ SUCH WRITTEN SUMMARY, IT SHALL BE READ TO THE RESIDENT IN A LANGUAGE THE RESIDENT UNDERSTANDS. IN THE CASE OF A MINOR OR A PERSON HAVING A GUARDIAN, BOTH THE RESIDENT AND THE PARENT OR GUARDIAN SHALL BE FULLY INFORMED OF THESE RIGHTS AND RESPONSIBILITIES. (C-~~6~~)

d) The resident, resident's representative, guardian, or parent of a minor resident shall acknowledge in writing the receipt from the facility of a copy of all resident rights set forth in Article II of

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## Section 350.3330(d) (continued)

the Act and a copy of all facility policies implementing such rights. (C-~~6~~)

e) THE FACILITY SHALL ENSURE THAT ITS STAFF IS FAMILIAR WITH AND OBSERVES THE RIGHTS AND RESPONSIBILITIES ENUMERATED IN THE ACT AND THESE REGULATIONS. (B-~~1-6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES  
FOR THE DEVELOPMENTALLY DISABLED OF ~~FIFTEEN (15) BEDS OR LESS~~

Section 350.3710 Applicability of Other Provisions of this Part ~~Divisions~~  
~~of These Minimum Standards, Rules and Regulations~~

a) An Intermediate Care Facility for the Developmentally Disabled of ~~Fifteen (15) Beds or Less~~ is a facility licensed ICF/DD for ~~Fifteen (15) or fewer residents.~~

b) The standards and regulations stated in other divisions of this publication shall apply to this type of facility unless indicated otherwise in this Division, by substitutions ~~and/or~~ or additions.

c) An Intermediate Care Facility for the Developmentally Disabled of ~~Fifteen (15) Beds or Less~~ shall consist of no more than one ~~(1)~~ building housing a maximum of ~~fifteen (15)~~ residents.

1) Housing for developmentally disabled persons shall be located on non-adjacent sites and shall be similar in design and construction as other buildings and dwellings within the area. An ICF/DD-15 Bed or Less Facility shall not be physically part of another facility or residential program licensed or funded by the state. A distance of at least 300 feet must separate an ICF/DD-15 Bed or Less facility from other state licensed or state funded residential facilities. (A, B-~~1-6~~)

2) Any facility which is already licensed as an ICF/DD of 15 Beds or Less, and which does not meet the criteria listed in Section 350.3710(c)(1), may continue to operate as it was prior to the effective date of this rule, as long as it remains continuously licensed. However, the criteria listed in Section 350.3710(c)(1) shall apply on any date the license terminates by operation of law, such as a change of ownership, voluntary closing of the facility by the licensee, or the license being



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## Section 350.3710(c)(2) (continued)

revoked by the Department.

- 3) Any facility having submitted an application for a permit or having been issued a permit from the Illinois Health Facilities Planning Board to establish an ICF/DD of 15 Beds or Less which does not meet the criteria listed in Section 350.3710(c)(1) may establish and operate such a facility, if it is licensed no later than six ~~(6)~~ months after the effective date of the permit. However, the criteria listed in Section 350.3710(c)(1) shall apply if the facility fails to obtain a license within six ~~(6)~~ months after the effective date of the permit, or on any date the license of such facility terminates by operation of law, such as a change of ownership, voluntary closing of the facility by the licensee, or the license being revoked by the Department.

- d) Every facility applying for licensure as ICF/DD of ~~Fifteen~~ ~~(15)~~ Beds or Less, after the effective date of these Standards, shall meet all the requirements contained in these regulations. This is required both for newly constructed building and existing buildings converting to this type of licensure.

Any person wishing to establish an ICF/DD of ~~Fifteen~~ ~~(15)~~ Beds or Less facility must obtain a permit from the Illinois Health Facilities Planning Board. (See Section 350.110(f)).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3720 Administration

- a) The administrator is responsible for ensuring that the facility remains in compliance with the Act and all Rules listed herein, and that all resident care plans are carried out as written. The administrator need not be full-time as required by Section 350.510(a), but shall spend at least four hours per week in the facility in the performance of these duties. (B)

- b) No person shall be the Administrator of more than four ~~(4)~~ licensed ICF/DD ~~Fifteen~~ ~~(15)~~ Beds or Less.

- c) In the absence of the Administrator, the Resident Services Director shall be responsible for the overall operation of the facility.

- d) In the absence of both the Administrator and the Resident Services

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## Section 350.3720(d) (continued)

Director, there shall be delegated written adequate authority and supervisory responsibility to a person at least ~~eighteen~~ ~~(18)~~ years of age who is capable of acting in an emergency during their absence. Such administrative assignments shall not interfere with resident care and supervision. (B ~~(6)~~)

- e) One person may perform the functions of both an Administrator and Resident Services Director. However this person must meet the requirements as set forth in Subpart B as modified by this Section. (B ~~(6)~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3730 Admission and Discharge Policies

- a) Residents shall only be admitted who have had a comprehensive evaluation covering physical, emotional, social and cognitive factors, conducted by an appropriately constituted, interdisciplinary team. As part of this evaluation the team shall determine the capabilities of the resident's ability for self-preservation. (B ~~(6)~~)

- b) No residents shall be admitted to, nor kept in, the facility who are not ambulatory. In addition, all residents must be able to move about without assistance from other persons and must be able to take action for self-preservation under emergency situations. ~~(6)~~

- c) Each resident of an ICF/DD of ~~Fifteen~~ ~~(15)~~ Beds or Less shall be either employed or enrolled in an external day program, off the grounds of the facility, at least ~~two hundred~~ ~~(200)~~ days per year, five ~~(5)~~ hours per day. A resident may participate in more than one ~~(1)~~ program to meet this requirement.

- 1) The provision of employment or enrollment in a day program shall be documented in the resident's individual habilitation plan.

- 2) Each interdisciplinary team review shall include a review of the resident's day program to assure consistent program planning and implementation.

- 3) When possible, representatives from the resident's employment or day program shall participate in the interdisciplinary team review.

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## Section 350.3730 (continued)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3740 Personnel

The Resident Services Director shall be responsible for ensuring that all recommendations in the individual plan of care are carried out as stated in the plan. In no case shall the Resident Services Director spend less than two ~~(2)~~ hours per week per resident in the performance of these duties. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3750 Consultation Services and Nursing Services

An ICF/DD of ~~Fifteen (15)~~ Beds Or Less, shall admit only residents certified by a physician as not in need of professional nursing services. Arrangements shall be made through formal contract for the services of a registered nurse or public health nurse to visit as required for the care of minor illnesses, injuries or emergencies, and to provide consultation on the health aspects of the individual plans of care. A responsible staff member shall be on duty at all times who is immediately accessible, and to whom residents can report injuries, symptoms of illness, and emergencies (see Section 350.810(a)). The consultant nurse shall give this consultation in the facility not less than two ~~(2)~~ hours per month. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3760 Medication Policies

- a) In order for each resident to attain the highest possible level of independent functioning, ~~where~~ all residents shall be permitted to participate in ~~his/her~~ their total health care program. This program shall include, but not be limited to, resident training in preventive health and self-medication procedures provided by a licensed nurse. Every facility shall adopt written preventive health and self-medication policies and procedures, which are consistent with the purpose of the ~~Nursing Home Care Reform Act (Ill. Rev. Stat., 1985, ch. 111-1/2, par. 4151-101 et seq.)~~ and this Part and which shall be followed in the operation of the facility, for assisting residents in obtaining preventive health and self-medication skills. (A, B-~~6~~)

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## Section 350.3760(a) (continued)

- 1) These policies and procedures shall be developed with consultation from an Illinois registered professional nurse and a registered pharmacist. These policies and procedures shall be part of the written program of care and services. (See Section 350.620). (B-~~6~~)
- 2) If the policies of the facility permit residents to be totally responsible for their own medication, when the attending physician gives written permission for such action, the policies of the facility shall provide that the resident and attending physician shall be given written statements concerning the relative responsibilities of each of the three parties, (facility, resident and physician), in cases where residents ~~the resident~~, or any other persons, suffer ~~adverse~~ harm due to residents' ~~the residents'~~ actions in handling ~~his/her~~ their own medications. ~~(6)~~
- b) No facility shall operate a pharmacy. ~~(6)~~
- c) A facility may stock only drugs which are regularly available without prescription at a commercial pharmacy, such as: noncontrolled cough syrups, laxatives, and analgesics. These shall be given to a resident only upon the written order of the physician, dentist, or podiatrist; shall be administered from the original containers; and shall be recorded in the resident's clinical record. ~~(6)~~
- d) No emergency medication kit shall be maintained in this type of facility. ~~(6)~~
- e) Nursing stations are not required in this type of facility.
- f) Current medical references are not required in this type of facility.
- g) All medications on individual prescription or from the physician's personal supply shall be properly labeled as set forth in Section 350.3760(q).
- 1) All other medications shall be authorized by a physician for individual resident use, and shall be clearly identified with the resident's name. (A, B-~~6~~)
- 2) Attending physicians shall review the medication regimen of each resident at least every six ~~(6)~~ months. Documentation of this review shall be entered in the resident's record. (B-~~6~~)



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## Section 350.3760 (continued)

- h) All medications used by residents shall be properly recorded by facility staff at time of use. See Section 350.1620(g). A medication record need not be kept for those residents for whom the attending physician has given permission to keep their medication in their room and to be fully responsible for taking the medications in the correct dosage and at the proper times themselves. ~~(C)~~
- i) Bottled oxygen may not be administered in a facility, except in an emergency. Not more than one 12 pound portable size tank of oxygen for such an emergency use shall be kept in the facility. However, use of an oxygen concentrator is permitted when prescribed by a physician for a resident. The facility must be in compliance with directions for use of such equipment as established by the manufacturer. (A, B-~~C~~)
- j) All discontinued legend or controlled drugs, all medications having an expiration date that has passed, and all medications of residents who have expired, shall be disposed of in accordance with the rules and regulations of the Federal Drug Enforcement Administration by the prescribing physician or the consultant pharmacist. A notation of their disposition shall be made in the resident's record. (B-~~C~~)
- k) All medications taken by residents in this type of facility must be administered by a nurse or physician, licensed to practice in Illinois unless the medication is self-administered by the resident. Facility staff shall not administer medication to residents unless the staff person is a properly licensed nurse or physician. (B-~~C~~)
  - 1) The facility shall provide either directly or through arrangements with the consultant nurse, as determined to be necessary by the facility's medical staff or the resident's personal physician, training and supervision necessary for each resident to gain independence in self-administering their ~~his/her~~ own medications ~~and/or~~ and biologicals (such as serums, vaccines, antigens, or antitoxins), as approved in writing by the resident's personal physician. (B-~~C~~)
  - 2) Each resident shall be evaluated by the facility's interdisciplinary team for the purpose of determining ~~his/her~~ their self-medication capability. Each resident determined to need training in self-medication shall have written training and habilitation objectives developed by the interdisciplinary team based upon this evaluation and stated in specific behavioral terms that permit the progress of the resident to be assessed and recorded. (B-~~C~~)

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## Section 350.3760(k) (continued)

- 3) Facility staff may assist a resident in the self-administration of medications by taking the medication from the locked area where it is stored and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident. Facility staff may also assist physically impaired residents, such as those who have arthritis, cerebral palsy, or Parkinson's disease, ~~etc.~~, in the removal of the medication from the container and in assisting the resident in consuming or applying the medication when requested to do so by the resident. (For example, a staff member may place a dose of medicine in a container and place the container to the mouth of a resident who would not be able to do so ~~himself~~ without spilling it.) (B-~~C~~)
- 4) To be considered "capable of self-administering ~~his/her~~ their own medications ~~and/or~~ and biologicals," a resident must, at a minimum, be able to identify ~~his/her~~ their medication by size, shape, and color ~~etc.~~, and know when ~~he/she is to~~ they should take it, and the amount to be taken each time. (B-~~C~~)
- l) All medications shall be stored under lock and key at all times. The storage area shall be well lighted and of sufficient size to permit storage without crowding. This area may be a metal container, drawer, cabinet, closet, or room. A separate medication room is not required. (B-~~C~~)
  - m) The key to the medicine area shall be the responsibility of, and in the possession of, the staff persons responsible for overseeing the self-administration of medications by residents. (B-~~C~~)
  - 1) The medicine area shall not be used for any other purpose. However, for those persons whom the attending physician has given written permission to handle their own medication, medications may be stored in a locked metal container, drawer, or cabinet in the resident's room along with other possessions of that resident. (B-~~C~~)
  - 2) Residents for whom the attending physician has given permission to be totally responsible for their own medication shall maintain possession of the key, or combination of the lock, to their own medication storage area. A duplicate key or a copy of the combination shall be kept by the facility in its safe, or some other secure place, for emergency use, such as if residents ~~the resident should~~ lose or misplace ~~his/her~~ their key, or

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## Section 350.3760(m)(2) (continued)

forget the combination. (B-~~6~~)

- n) Medications for external use shall be kept in a separate location in the medicine area or in a separate locked area. (B-~~6~~)
- o) All poisonous substances and other hazardous compounds shall be kept in a separate locked area away from medications. (B-~~6~~)
- p) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked container in a refrigerator, or in a locked refrigerator. (B-~~6~~)
- q) The label of each individual medication container filled by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name and strength of drug, amount of drug, date of issue, expiration date of all time-dated drugs; name, address, and telephone number of pharmacy issuing the drug; and the initials of the pharmacist filling the prescription. If the individual medication container is filled by a physician from ~~his/her~~ the physician's own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist, and prescription number. (B-~~6~~)
- r) Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Containers having no labels shall be destroyed in accordance with Federal and State laws. (B-~~6~~)
- s) The medications of each resident shall be kept and stored in their originally received containers. Medications shall not be transferred between containers. (B-~~6~~)

Attorney General's Opinion File No. S-1033, dated January 9, 1976, concluded that the administration of medication to residents of licensed long-term care facilities is a nursing procedure, as defined in the Illinois Nursing Act (Ill. Rev. Stat. 1973, ch. 91, par. 3522 et seq.), and, as such, cannot be performed by persons who are not licensed as either Registered Professional Nurses or Licensed Practical Nurses. The opinion concluded by stating that "nursing aides, orderlies, attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer medications to patients in nursing homes."

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 350.3770 Food Services

- a) The food service in each facility shall be under the operational supervision of a manager or supervisor who has been certified in food service sanitation in accordance with Subpart C of the Department's rules entitled ~~for~~ "Food Service Sanitation" (77 Ill. Adm. Code 750) ~~of the Illinois Department of Public Health~~. This person need not be a dietitian or a dietetic service supervisor as required in Section 350.1810(a)(1). This person shall be responsible for ensuring that the food service is in compliance with Section 350.3770 of this Part ~~these rules~~. This person shall spend at least four ~~44~~ hours a week in the performance of these duties. (B-~~6~~)
- b) If the person responsible for the food services is not a dietitian he or she shall consult with a dietitian no less than two ~~42~~ hours per month. ~~(6)~~
- c) Food should be prepared and served family style to approximate, as nearly as possible, a family living situation. Residents should be allowed and encouraged to serve themselves the appropriate amount of food for a properly balanced diet. Residents shall be allowed and encouraged to choose their own seating arrangements. ~~(6)~~
- d) The facility shall have available at least one ~~(1)~~ copy of a current diet manual acceptable to this Department, located in the kitchen and available to dietary personnel. ~~(6)~~
- e) New or replacement kitchen equipment need not be of an institutional type.
- f) ICF/DD of 15 Beds or Less need only comply with the following Sections of the Department's rules "Food Service Sanitation," (77 Ill. Adm. Code 750), 1983: (See Table D).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3780 Codes and Standards

- a) In addition to compliance with the Standards set forth herein, all building codes, ordinances and regulations which are enforced by City, County or other local jurisdictions in which the facility is, or will be located must be observed.
- b) The Federal Government under the certification process requires conformance with the 1967 Life Safety Code for lodging or rooming house occupancy. Since the requirements ~~standards~~ contained in



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## Section 350.3780(b) (continued)

this Subpart I ~~Division~~ are more stringent than lodging or rooming house occupancy of the 1967 Life Safety Code, certification must be based on compliance with the requirements ~~standards~~ contained in this Subpart I.

- c) See Section 350.2620(a)(1) for all the required Codes and Standards. The following Codes and Standards listed in Section 350.2620(a)(1) are not required for ICF/DD ~~fifteen~~ <sup>15</sup> Beds or Less.

## 1) National Fire Protection Association

- A) NFPA 13-1976, Installation of Sprinkler Systems
- B) NFPA 13A-1976, Care and Maintenance of Sprinkler Systems
- C) NFPA 56F-1974, Standard for Non-Flammable Medical Gas Systems

## D) NFPA 90A-1976, Air Conditioning and Ventilating Systems

## E) NFPA 96-1976, Vapor Removal from Cooking Equipment

## F) NFPA 253-1978, Flooring Radiant Heat Energy Test

- 2) Underwriter's Laboratory, Inc. (UL), Standard No. 181-1974, Factory made Air Duct Materials and Air Duct Connectors

- 3) American Society for Testing and Materials (ASTM), Standard No. E90-1975, Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions

- 4) American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE)

## A) Handbook of Fundamentals, 1977

- B) Standard No. 52-76, Methods of Testing Air Cleaning Devices Used in General Ventilation for Removing Particulate Matters

- 5) Uniform Building Code (1976 Edition)

- 6) National Standard Plumbing Code (1976 Edition)

- 7) Standard No. A17.1-1971, American National Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Stairs

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## Section 350.3780(c) (continued)

- 8) HUD FT/TS-24, A Guide to Air Borne, Impact and Structure Borne Noise Control in Multi-Family Dwellings  
(Source: Amended at 13 Ill. Reg.         , effective         )

## Section 350.3790 Administration and Public Areas

Accommodations (ramps, low thresholds, toilets, lavatories, and drinking fountains) for the physically handicapped (public, staff) shall be provided in administration and public areas, if these areas are located within the facility. ~~(C)~~

- (Source: Amended at 13 Ill. Reg.         , effective         )

## Section 350.3800 Bedrooms

- a) Each single bedroom used for a resident shall have at least ~~eighty~~ <sup>(80)</sup> square feet of usable net floor area, not including any space taken up for closets, wardrobes, bathrooms, and clearly definable entryway areas. ~~(C)~~

- b) Each multiple bedroom used for residents shall have for each resident housed in the room at least ~~sixty~~ <sup>(60)</sup> square feet of usable floor area. Usable area does not include any space utilized for closets, wardrobes, bathrooms, and clearly definable entryway areas. ~~(C)~~ Maximum room capacity shall be two ~~(2)~~ residents. ~~(C)~~

- c) Any resident sleeping room below grade must be dry, and have a window area which shall be at least ten ~~(10)~~ percent of the floor area, and the window sill height must not exceed a maximum of three ~~(3)~~ feet above the floor. Any such room shall have two approved exits to grade level as described in the 1967 Edition of the Life Safety Code for Lodging and Rooming House Occupancy. ~~(C)~~

- d) Vandalproof reading lights are not required as specified in Section 350.3040(c)(2). ~~(C)~~

- e) Each resident shall have access to a toilet room. Access to the toilet does not have to be directly from the bedroom. ~~(C)~~

- f) A closet or wardrobe of at least six ~~(6)~~ square feet shall be provided for each resident. ~~(C)~~

- (Source: Amended at 13 Ill. Reg.         , effective         )

## Section 350.3810 Nurses Station

A nurses station is not required in Intermediate Care Facilities for the Developmentally Disabled of 15 Beds or Less ~~a requirement~~.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.3820 Bath and Toilet Rooms

- a) Bathing facility shall be provided for each eight ~~(8)~~ resident beds per floor which is not otherwise served by bathing facilities adjacent to the resident room. ~~(6)~~

- 1) At least one ~~(1)~~ bathtub or shower and one ~~(1)~~ toilet shall be provided on each floor where resident bedrooms are located. ~~(6)~~
- 2) Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture. This room shall be large enough to provide space for drying and dressing. ~~(6)~~
- 3) Showers shall be at least three ~~(3)~~ feet square. ~~(6)~~
- 4) Shower stalls do not have to be constructed with a low curb or no curb at all.
- b) One ~~(1)~~ toilet room shall serve no more than eight ~~(8)~~ beds. ~~(6)~~
  - 1) The toilet room shall contain a water closet and a lavatory. ~~(6)~~
  - 2) The lavatory may be omitted from a toilet room which serves a resident bedroom if each such resident room contains a lavatory. There shall be at least one toilet on each floor on which bedrooms are located.
- c) Provide a toilet room with a water closet and a lavatory for staff and visitors. ~~(6)~~
- d) Wheelchair toilets for residents are not required.
- e) Training toilets for residents are not required.
- f) Bathtubs and shower stalls for assisted bathing are not required.

## Section 350.3820 (continued)

- g) Bathing and toilet facilities are not required to be in the same room.  
(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.3830 Utility Rooms

- a) A clean utility room and soiled utility room are not required.
- b) A charging room for a linen chute is not required.
- c) A nourishment station is not required.
- d) An examination and treatment room is not required.
- e) Equipment storage rooms for IV stands, inhalators, air mattresses, walkers, and wheelchairs ~~etc.~~ are not required.  
(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 350.3840 Living, Dining, Activity Room ~~(6)~~

- a) Provide a minimum of one ~~(1)~~ dining room with at least ten ~~(10)~~ square feet per resident bed. ~~(6)~~
- b) Provide a minimum of one ~~(1)~~ comfortably furnished living room having a total window area of at least one-tenth ~~(1/10)~~ the floor area. Living room to have a minimum of ten ~~(10)~~ square feet per resident bed. ~~(6)~~
- c) The living, dining, ~~and/or~~ and activity rooms may be combined into one room, and the combined area of these rooms shall not be less than ~~twenty (20)~~ square feet per resident bed. ~~(6)~~  
(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.3850 Therapy and Personal Care

- a) Physical and occupational therapy facilities are not required.
- b) A separate room for hair care and grooming needs is not required.  
(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)



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## Section 350.3860 Kitchen

- a) Every facility shall have a kitchen area, not including food storage area, of approximately ten ~~(10)~~ square feet per resident bed. ~~(6)~~
- b) Provide satisfactory facilities for washing and sanitizing dishes and cooking utensils. A residential type dishwasher is recommended. ~~(B-6)~~
- c) A separate bulk food storage room is not required.
- d) A storage area for cans, carts, and mobile tray conveyors is not required.
- e) A janitor's closet for the exclusive use of food preparation area is not required.
- f) A separate handwashing lavatory, in addition to the two ~~(2)~~ compartment sink, is not required in the kitchen.
- g) The two ~~(2)~~ compartment sink does not have to meet the requirement of Section 350.3030(b)(3).
- h) For facilities which were licensed on or before October 1, 1987, and for which the Department has waived compliance with Section 350.2990(a)(9) prior to that date, compliance with that Section is not required as long as the facility continues to comply with the conditions of the waiver.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.3870 Laundry Room

- a) Provide a laundry room equipped with appropriate and satisfactory type equipment of a design to meet the needs of the facility, unless a commercial laundry is used. ~~(6)~~
- b) Laundry facilities shall not be located in rooms used for food storage, preparation, or serving; however, packaged foods, including packaged single-service food articles, may be stored in the laundry room. ~~(6)~~
- c) The laundry room need not be equipped with commercial type equipment, but must be equipped with appropriate and satisfactory type equipment

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## Section 350.3870(c) (continued)

of a design to meet the needs of the facility and the residents. ~~(6)~~

- d) Provide space for the storage of clean linen. ~~(6)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 350.3880 General Building Requirements ~~Building General~~

## a) Stairway Dimensions

- 1) If a facility has a stairway, the stairway must have a minimum headroom of six ~~(6)~~ feet, eight ~~(8)~~ inches and a maximum height of ~~twelve (12)~~ feet between landings. A minimum clear width of three ~~(3)~~ feet is required, except for handrails which may project three and one-half ~~(3 1/2)~~ inches on each side. A handrail is required only on one side of the stairs. Width of treads, exclusive of nosing or projection, may not be less than nine ~~(9)~~ inches. Risers may not be more than eight ~~(8)~~ inches. Every stairway landing shall be at least as deep as the width of any stairway door which opens onto the landing. Stairways with triangular or winding treads are permissible providing the stairways are at least three ~~(3)~~ feet wide and the width of each tread is not narrower than six ~~(6)~~ inches at any point. A stairway consisting of a single riser is not acceptable. ~~(B-6)~~
- 2) For facilities licensed on or before October 1, 1987, the following exceptions to subsection (a)(1) of this Section shall apply:
  - A) For all stairways, a minimum clear width of ~~twenty-six (26)~~ inches (rather than three ~~(3)~~ feet) is required.
  - B) For stairways with triangular or winding treads, the stairway may be no less than ~~twenty-six (26)~~ inches wide (rather than three ~~(3)~~ feet) and the width of each tread may be narrower than six ~~(6)~~ inches for up to 25% of the tread.
  - C) Such facilities must comply with any additional requirements which may be imposed by the State Fire Marshal.

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## Section 350.3880 (continued)

- b) Handrails at stairways shall be one and one-half ~~(1 1/2)~~ inches in diameter and one and one-half ~~(1 1/2)~~ inches minimum clear of the wall. ~~(6)~~
- c) Every facility shall have a ceiling height of seven ~~(7)~~ feet, six ~~(6)~~ inches or more, throughout all rooms occupied or used by residents. Any projection from the ceiling shall have a clearance of at least six ~~(6)~~ feet, eight ~~(8)~~ inches from the floor. Ceiling heights of basements may be seven ~~(7)~~ feet. ~~(6)~~
- d) Every required exit door to the outside shall be of the side hinged swinging type, and have a minimum width of ~~thirty-six (36)~~ inches. ~~(6)~~
- e) Locks on exterior doors shall not require the use of a key for operation from the inside of the building. ~~(6)~~
- f) Every door shall have a latch or other fastening device, which can be released by a simple type of releasing device, such as a knob, handle or panic bar. The method of operating all such releasing devices shall be obvious, even in the dark. ~~(6)~~
- g) The floor on both sides of a door in a means of egress shall be the same elevation on both sides of the door, a distance equal to the width of the widest single door shall be maintained at the landing. When the door discharges to the outside or to an exterior balcony, exterior exit, or exterior exit access, the floor level outside the door may be one step lower than the inside, but not more than eight ~~(8)~~ inches lower. However, at the two ~~(2)~~ required exits at the first floor there can be no step. This is to provide accessibility for handicapped staff or visitors, if administration and public areas are located within the facility. ~~(6)~~
- h) Every facility shall have either swinging or sliding exterior doors. However, all exterior doors in required means of egress must be of the side-hinged, swinging type. Door closers and panic hardware are not required. ~~(6)~~
- i) The doors for the toilet rooms used by residents shall have a minimum door width of ~~twenty-eight (28)~~ inches. ~~(B-6)~~
- j) The doors for the resident bedrooms shall have a minimum door width of ~~thirty (30)~~ inches. Automatic closers are not required on resident bedroom doors. ~~(B-6)~~

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## Section 350.3880 (continued)

- k) Elevators are not required in ICF/DD ~~Fifteen (15)~~ Beds or Less facilities.
- (Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)
- Section 350.3890 Corridors
- a) In every facility all corridors used by residents shall have a minimum unobstructed width of three ~~(3)~~ feet, and shall be lighted properly at night and at other times when necessary. If there are handrails, and they project more than three and one-half ~~(3 1/2)~~ inches, the width of the corridor shall be measured between handrails. Handrails are not required. ~~(6)~~
- b) Corridor doors shall be a minimum of one and three-eighths ~~(1 3/8)~~ inches thick solid core wood. Louvers in doors shall not be permitted except as approved by the Department. ~~(B-6)~~
- (Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

## Section 350.3900 Special Care Room

A special care room is not required in Intermediate Care Facilities for the Developmentally Disabled of 15 Beds or Less ~~this type of facility.~~

(Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

## Section 350.3910 Exit Facilities and Subdivision of Floor Areas

- a) At least two ~~(2)~~ exits, remote from each other, shall be provided for each floor or fire section of the building used by residents. All exits shall be so arranged as to provide a safe path of travel to the outside of the building without traversing any corridor or space exposed to an unprotected vertical opening, except that traversing unprotected vertical openings may be permitted in existing sprinklered buildings. At the upper floor level, at least one ~~(1)~~ of the required means of egress shall consist of an interior stairway enclosed at the top and bottom, an enclosed outside stairway, or a horizontal exit. Every sleeping room, unless it has two ~~(2)~~ doors providing separate ways of escape, or has a door opening directly to the outside of the building, shall have at least one ~~(1)~~ outside window which can be opened from the inside, without the use of tools.



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## Section 350.3910(a) (continued)

to provide a clear opening of not less than 16 inches in least dimension and 400 square inches in area, with the bottom of the opening not more than four ~~4~~ feet above the floor.

- b) An unenclosed outside stairway may be used as one ~~4~~ of the two ~~4~~ required means of egress from the second floor, only in existing buildings, subject to the approval of the Department, as determined by an onsite inspection. The inspector will examine the stair for structural stability, height of risers, width of treads, width of stairway, handrails, and maintenance, including decay or dry rot in accordance with standards found in Section 350.3880(a) and (b).

- 1) Unenclosed outside stairways shall not constitute more than ~~50~~ percent of the required exit capacity, in any case. No more than one of the exits from the second floor may be an unenclosed outside stairway. (B-~~6~~)

- 2) Fire escapes need not be of non-combustible construction.

- c) Means of egress shall be so arranged that there are no dead end pockets, hallways, corridors, passageways, or courts whose depth exceeds ~~twenty~~ ~~20~~ feet. (B-~~6~~)

- d) Corridor walls shall have a fire-resistive rating of at least one ~~4~~ hour. Corridor walls may terminate at the underside of the ceiling. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3920 Stairways, Vertical Openings and Doorways

- a) Interior stairways must be enclosed with a minimum of one and three-eighths ~~4~~ inch solid core wood door, with a self-closing device at the top and bottom of the stairway. (B-~~6~~)
- b) There shall be no variation exceeding one-fourth ~~4~~ inch in the depth of treads or in height of risers in any flight. ~~4~~
- c) Usable space under stairs shall not be used for storage. (B-~~6~~)
- d) Means of egress such as stairs, stair landings, balconies, ramps and aisles, located along the edge of open-sided floors and mezzanines, shall have guards to prevent falls over the open side. Each stair shall have handrails on at least one ~~4~~ side. (B-~~6~~)

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## Section 350.3920 (continued)

- e) Any light or ventilation shaft, chute and other vertical opening between stories shall be enclosed with construction having a one ~~4~~ hour fire resistance rating. (B-~~6~~)

- f) All required exit doors shall be free from any obstruction, chain locking, or holding device. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3930 Hazardous Areas and Combustible Storage

Walls at enclosure of hazardous areas shall have a one-hour fire resistive rating. Doors at enclosure of hazardous areas shall be a minimum of one and three-eighths ~~4~~ inches thick solid core wood, with automatic closer. Hazardous areas include the following: kitchens, furnace and heater rooms, laundries Rooms or spaces, including repair shops, used for the storage of combustible supplies and equipment in quantities deemed hazardous by the authority having jurisdiction. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3940 Mechanical Systems

Thermal and acoustical insulation requirements ~~as shown previously~~ in Section 350.2720(b) of this Part ~~these standards does~~ do not apply to ICF/DD ~~fifteen~~ ~~15~~ beds or Less.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.3950 Heating, Cooling, and Ventilating Systems

- a) Air conditioning and ventilation systems shall be designed, installed and maintained as required by NFPA 90B. (B-~~6~~)
- b) Compliance with pressure relationships and ventilation rates as shown in Table B-~~following Rule 52-12-04-09~~ is not required.
- c) Vapor removal from cooking equipment in conformance with NFPA Standard 96 is not required.
- d) Provide a range hood with fan for the removal of smoke or grease-laden vapors. If the hood does not discharge directly to the

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## Section 350.3950(d) (continued)

## Section 350.3970 Electrical Systems

outside, then a recirculating type exhaust hood with cleaning and deodorizing elements is acceptable. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.3960 Plumbing Systems

## b) Duplex Receptacles in Resident Bedrooms

- 1) There shall be one duplex receptacle for each ~~twelve~~ ~~(12)~~ lineal feet of wall space in bedrooms. Doors are not included in measuring wall space. Receptacles shall be located at convenient places. ~~(G)~~

- b) Clinical rim flush sinks are not required.

- c) Plumbing fixtures are not required to have quiet operating type flush valves.

- d) Hot water distribution systems shall be arranged to provide hot water at each hot water outlet. Hot water may be higher than 110 F. degrees if the hot water taps are in supervised areas and the purpose of the higher temperature is to train residents in the use of hot water. If a temperature higher than 110 F. degrees is used, all residents having access to those hot water taps must be able to demonstrate the ability to mix water appropriately and safely. ~~(B)~~ ~~(G)~~

- e) Hot water need not be 140 F. degrees for washing dishes or 180 degrees for doing laundry, but rather be set at the equipment manufacturer's recommended settings, when residential type dishwashing and laundry equipment are used in this type of facility instead of commercial type equipment. ~~(B)~~ ~~(G)~~

- f) Existing ordinary and frame buildings of less than one hour rated construction are required to be sprinklered. All other construction types do not require sprinklers. Facilities of eight ~~(8)~~ beds or less will not be required to have a sprinkler system, if the facility has been inspected by the Office of the State Fire Marshal and found not to need a sprinkler system, as evidenced by a written report to the Department from the Office of the State Fire Marshal so stating. ~~(B)~~ ~~(G)~~

- g) A separate sink for potwashing is not required.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

- a) Resident's rooms shall have general lighting. At least one ~~(1)~~ light fixture shall be switched at the entrance to each resident room. ~~(G)~~

## b) Duplex Receptacles in Resident Bedrooms

- 1) There shall be one duplex receptacle for each ~~twelve~~ ~~(12)~~ lineal feet of wall space in bedrooms. Doors are not included in measuring wall space. Receptacles shall be located at convenient places. ~~(G)~~
- 2) For facilities which are licensed on or before October 1, 1987, and for which the Department has waived compliance with subsection (b)(1) of this Section prior to that date, compliance with that subsection is not required as long as the facility continues to comply with the conditions of the waiver.
- c) At least one duplex receptacle shall be installed in all corridors which are ten ~~(10)~~ feet or longer in length. ~~(G)~~
- d) Panelboards serving lighting and appliance circuits are not required to be located on the same floor as the circuits they serve.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.3980 Fire Alarm and Detection System

- a) An approved automatic smoke detection system shall be installed on each floor level. Such system shall be installed in accordance with NFPA 101, Section 6-3 of the 1976 edition of the Life Safety Code, and with NFPA Standard 72, 1975 edition. The smoke detectors shall be installed in all rooms and corridors except toilets and closets. In no case shall smoke detectors be spaced further apart than ~~thirty~~ ~~(30)~~ feet on center, or more than ~~fifteen~~ ~~(15)~~ feet from any wall. The automatic smoke detection system shall be electrically interconnected to the fire alarm system. Facilities of eight ~~(8)~~ beds or less will be required to have this automatic smoke detection system. However, this automatic smoke detection system will not have to be electrically connected to the fire alarm system, in accordance with the provisions of Section 350.3980, if the facility has been inspected by the Office of the State Fire Marshal and found not to need such electrical connection to the fire alarm system, as evidenced by a written report to the Department from the Office of the State Fire Marshal to that effect. ~~(A, B)~~ ~~(G)~~



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## Section 350.3980 (continued)

- b) The fire alarm system shall automatically transmit the alarm to any available municipal fire department by direct private line or through any approved central station. Facilities of eight ~~(8)~~ beds or less will not be required to have this automatic fire alarm system, in accordance with the provisions of Section 350.3980(c) if the facility has been inspected by the Office of the State Fire Marshal and found not to need such fire alarm system, as evidenced by a written report to the Department from the Office of the State Fire Marshal to that effect. (A, B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.3990 Emergency Electrical System

- a) The facility shall have an emergency electrical service which shall provide services as follows:
- 1) Illumination for means of egress
  - 2) Fire detection and alarm system (A, B, ~~C~~)
- b) Emergency electrical service is not required to provide lighting for exit signs or a nurses station, nor for providing power to a communication system, including a nurse's call system.

- c) Facilities of eight ~~(8)~~ beds or less will not be required to provide emergency electrical service for illumination for means of egress, or for fire detection and alarm system, in accordance with the provisions of this Section ~~350.3990~~, if the facility has been inspected by the Office of the State Fire Marshal and found not to need such an emergency electrical service, as evidenced by a written report to the Department from the Office of the State Fire Marshal to that effect.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.4000 Fire Protection

The Department, or, upon request, the Fire Prevention Division of the Office of the State Fire Marshal, will make inspections for fire safety and compliance with these standards. The Fire Prevention Division shall call to the attention of the Department of Public Health any violations of these standards pertaining to fire protection found during a requested inspection.

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## Section 350.4000 (continued)

The Department, or, upon request, the Fire Prevention Division, shall be privileged to make as many subsequent visits as deemed necessary by the Department for assurance of compliance. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.4010 Construction Types

- a) Buildings shall be of fire resistive, protected noncombustible, one ~~(1)~~ hour protected ordinary, one ~~(1)~~ hour protected wood frame, heavy timber, or unprotected noncombustible type construction. (~~B~~, ~~C~~)
- b) Buildings shall be no more than two ~~(2)~~ stories in height. Basements are permitted for use as resident living ~~and for~~ and activity areas. Basements are also permitted for resident dining ~~and for~~ and sleeping areas if they are dry, have a window area which is at least ~~10%~~ ten percent of the floor area, the window sill height does not exceed a maximum of three ~~(3)~~ feet above the floor and there are two ~~(2)~~ approved exits to grade level. Attics are not permitted for any kind of resident use. However, both attics and basements may be used as storage space and for various staff use functions such as offices, and sleeping quarters ~~etc.~~
- c) Any ICF/DD of 15 Beds or Less which shares a common wall with any other occupancy must be separated from that occupancy by a minimum of one ~~(1)~~ hour rated fire wall. (~~B~~, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.4020 Equivalencies

Existing facilities which are in substantial compliance with these regulations, but which have any deficiencies, will be considered for approval, if alternative construction exists which will provide health and safety features that are equivalent to these regulations.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 350.4030 New Construction Requirements

The requirements listed in Sections 350.3780 through 350.4010 for existing

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## Section 350.4030 (continued)

facilities also apply to new construction unless modified by the following rules in this section. The following rules apply only to new construction.

- a) Single resident bedrooms shall contain at least ~~one hundred~~ ~~(100)~~ square feet in area. Multiple resident bedrooms shall contain at least ~~seventy-five~~ ~~(75)~~ square feet per bed in area. Minimum usable floor areas do not include any space utilized for closets, free-standing wardrobe units, bathrooms, and clearly definable entryways. ~~(6)~~
- b) Provide a closet or wardrobe of at least six ~~(6)~~ square feet in area for each resident. ~~(6)~~
- c) The living, dining, and activity functions may be combined into one room, or may be in separate rooms. However, the combined area of these functions shall not be less than ~~thirty~~ ~~(30)~~ square feet per resident bed. ~~(6)~~
- d) Corridor doors shall be a minimum of one and three-quarters ~~(1 3/4)~~ inches thick solid core wood. Louvers in doors shall not be permitted except as approved by the Department. ~~(B-6)~~
- e) Interior stairways must be enclosed with a minimum of one ~~(1)~~ hour rated walls and a minimum of one and three-quarters ~~(1 3/4)~~ inch solid core wood doors, with a self-closing device, at the top and bottom of the each stairway. ~~(B-6)~~
- f) In every facility all corridors used by residents shall have a minimum unobstructed width of four ~~(4)~~ feet, and shall be lighted properly at night and at other times when necessary. ~~(6)~~
- g) Facilities shall be of the following heights and construction types with sprinkler requirements identified in the Table E. ~~(B-6)~~
- h) Hazardous areas, including combustible storage, as listed in Section 350.3930, must have walls of one ~~(1)~~ hour fire resistive rating. Doors at enclosure of hazardous areas shall be a minimum of three-fourths ~~(3/4)~~ hour "C" label, with automatic closer. ~~(B-6)~~
- i) The following additional codes are required for new construction.
  - 1) NFPA 13-1976 Edition, Installation of Sprinkler Systems
  - 2) NFPA 13A-1976 Edition, Care and Maintenance of Sprinkler Systems

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## Section 350.4030(i) (continued)

- 3) NFPA 13D-1975 Edition, Installation of Sprinkler Systems in One and Two Family Dwellings and Mobile Homes
  - 4) NFPA 70-1978 Edition, National Electric Code ~~(B-6)~~
  - j) Unenclosed outside stairways shall not be accepted as constituting any part of the required means of egress for new buildings. ~~(B-6)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART Q: DAY CARE PROGRAMS

## Section 350.4210 Day Care in Long-Term Care Facilities

- a) For a licensed long-term care facility to be approved for a day care program, it is necessary that the facility meet all licensing requirements for its level of care.
- b) In addition, the following criteria must also be met:
  - 1) Staff: Sufficient and satisfactory personnel shall be on duty to provide services that meet the total needs of the day care residents, without detracting from the services given to the residents in the facility in accordance with the various staffing requirements of this Part.
  - 2) Space:
    - A) Dining - Adequate space and equipment available to accommodate the additional residents in accordance with Subparts I and K and Section 350.2670 or 350.2970 of this Part.
    - B) Activity Area - Large enough area to accommodate capacity of facility, plus additional "Day Care" residents in accordance with Sections 350.2670 or 350.2970 of this Part.
    - C) Rest Area - A definite area should be designated as an area available for the Day Care resident to nap or rest. This area should be equipped with beds (roll-aways can be used) or cots and portable screens. There should also be adequate space available for personal items storage for the number of Day Care residents being cared for. Suggested areas which can be utilized for the Day Care resident could



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## Section 350.4210(b)(2)(C) (continued)

include:

- i) Facilities having more than one communal area (such as a lounge and sunporch~~ette~~) could designate one of these for rest areas;
- ii) Non-occupied rooms (no one assigned to these rooms);
- iii) Toilets - Adequate number to accommodate extra number of residents in accordance with Section 350.2660 or 350.2960 of this Part.

## 3) Records:

- A) A statement by a physician who has evaluated the resident within the last 30 days stating the resident is free of communicable and infectious disease, and indicating any medication ~~addition~~ or treatments and diet needed by the resident during the period of time in the facility. Permission should also be granted in this statement for the resident to participate in activities with any contraindications or limitations.

- B) Medication and Treatment record - Required for any medications or treatments given during resident stay in the facility. (Medications must be in original containers and properly labeled.)

- C) "Face" sheet or admission sheet - Containing all pertinent information necessary for the "safe keeping" of the resident such as complete name, address, telephone number, social security number, medicare number, and age of resident; name, business, and home address, and telephone number of person to notify in an emergency; name of family physician; name of physician to call in an emergency.

- D) Incident Report - In case of medication error or accident of any kind.

- 4) There must be written policies covering "Day Care" Service in the facility which explain implementation of this Section.

- 5) Permission for a Day Care Program requires identifying the services of the facility that will be used in the program. Examples: Activity area, dining area, administering of

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## Section 350.4210(b)(5) (continued)

medications by nursing staff, physical therapy, speech, and social services~~ette~~.

- 6) The maximum number of "Day Care" residents served shall be reported with the application under Section 350.620 of this Part.
- 7) The facility should consider the following in developing and providing Day Care Programs:

- A) Use of house or advisory physician for emergencies;
- B) Insurance coverage;
- C) Signed agreement with family or responsible individual;
- D) Permission to be involved in activities outside of the facility (in the community);
- E) Attendance record; and
- F) Facility should be aware of method and time of pick-up and delivery of the Day Care residents.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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Section Numbers: Proposed Action:

330.3050, 330.3060, 330.3070, 330.3080  
330.3090, 330.3100, 330.3110, 330.3120

2) Code Citation:

77 Ill. Adm. Code 330

**Proposed Action:**

[illegible]

**Proposed Action:**

[illegible]

4) Statutory Authority:

Nursing Home Care Act [H.L. Rev. Stat. 1987, ch. 111 § 1/2, par. 4151-101 et seq., as amended by Public Act 85-968 (Senate Bill 1322), effective December 9, 1987, Public Act 85-1183 (House Bill 4172), effective August 13, 1988, and Public Act 85-1378 (Senate Bill 2201), effective September 1, 1988].

### 5) A Complete Description of the Subjects and Issues Involved:

The Department is proposing the permanent adoption of amendments which were adopted on an emergency basis effective October 24, 1988. These proposed amendments will also make other changes to reflect recent statutory changes and to clarify various provisions of the rules. In addition, these proposed amendments will update statutory references and make a number of non-substantive changes in the other provisions of the rules. The specific changes included in these proposed amendments are described here.

## Emergency Changes

The most significant emergency changes which are included in these proposed amendments are the result of Public Act 85-1378 (Senate Bill 2201), which took effect on September 1, 1968. This legislation amends the Nursing Home Care Act to eliminate the lowest level of violations, level "C" violations. This level of violations is replaced with a procedure for the issuance of administrative warnings. Facilities will not be required to submit a plan of correction in response to an



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administrative warning, but will be responsible for correction of the condition.

To implement this change, the Department is proposing the following actions which were adopted on an emergency basis effective October 24, 1988. The Notice of Emergency Amendments appeared in the Illinois Register on November 14, 1988, at 12 Ill. Reg. 18939.

1. Deleting all of the current designations of level "C" violations from the entire text of the rules.
2. Expanding the provisions in Section 330.272 concerning the determination to issue a notice of violation to also include administrative warnings.
3. Eliminating the language concerning level "C" violations in Section 330.274 which concerns the determination of the level of a violation.
4. Adding a new Section 330.277 to provide procedures for the issuance of administrative warnings.
5. Eliminating the provisions concerning the assessment of penalties for ten or more uncorrected level "C" violations from Section 330.282(e).
6. Adding a definition of "administrative warning" and deleting the definition of "type C violation" in Section 330.330.

Additional statutory changes included in Public Act 85-1378, and changes included in Public Act 85-1183 (House Bill 4172), which took effect on August 13, 1988, were also adopted on an emergency basis and are included in these proposed amendments. These changes include amendments to provisions concerning:

1. Submission of ownership information [Section 330.250(a)].
2. Contents of the quarterly list of facilities against which the Department is taking some action [Section 330.290(a)].
3. Basis and procedures for involuntary transfer or discharge [Section 330.4300(c)].
4. Procedure for hearings requested by persons who file complaints against a facility [Section 330.4310(j)].

Additional Statutory Changes

Additional statutory changes included in Public Act 85-968 (Senate Bill

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1322), which took effect on December 9, 1987, are also being implemented in these proposed amendments. These changes include amendments to reflect the statutory provisions concerning the length of the license period [Section 330.110(b)] and the appointment of monitors [Section 330.270(a)].

In addition, repeal of Sections 330.260(d) and (g) is being proposed, since the parallel sections of the statute, Sections 3-314 and 3-317, were repealed by Public Act 83-1530, which became effective July 1, 1985. Repeal of these provisions of the rules will be consistent with the statute.

Nursing and Personal Care Assistants and Student Interns

Two proposed new sections 330.913 and 330.916 define the training requirements of persons serving as personal care and nursing care assistants in facilities. The proposed rules further define and outline the requirements of student interns and the rules that govern facilities pertaining to the employing of student interns. The requirements of facilities pertaining to these types of personnel are outlined in the text of the new sections.

Physical Examinations and Tuberculin Skin Tests

Changes in Sections 330.760 and 330.1110 and the addition of new Sections 330.765 and 330.1135 are being proposed to clarify the rules on employee physical examinations and tuberculin skin tests for employees and residents. The changes will eliminate the requirement for annual physical examinations for employees, since these examinations are not effective in protecting the health of the employees or residents. The provisions concerning the initial physical examination of employees are being separated into the new Section 330.765 and the procedures for conducting tuberculin skin tests are being separated into the new Section 330.1135. Section 330.1110, which concerns medical care for residents, is being amended to reference the tuberculin test procedures which are being relocated to Section 330.1135.

Additional Substantive Changes

The definition of "person in need of mental treatment" in Section 330.330 is being deleted and the substance of this definition is being added to the provision on admission policies in Section 330.720(c)(1). Changes in this provision are intended to insure that the provision is consistent with the language of the Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. 1987, ch. 91 1/2, par. 1-100 et seq.) and with the policies of the Department of Mental Health and Developmental Disabilities.

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The definition of "qualified mental retardation professional" in Section 330.330 is being amended to conform to recent changes in the rules of the Health Care Financing Administration governing Medicaid program certification of Intermediate Care Facilities for the Mentally Retarded (42 CFR 483). The changes in these federal rules were adopted effective October 1, 1988. The proposed amendments to this definition will insure that the definition is consistent with the federal rules.

The definition of a utensil sanitizer in Section 330.330 is being replaced with a definition of sanitation to include chemical, as well as steam sanitization.

Shower stall curb requirements in Section 330.3650(j) are being eliminated as no longer necessary. These changes will insure that the rules reflect current enforcement policies of the Department, since numerous waivers have been granted from these requirements. The definition of safety device in Section 330.330 is being revised to eliminate the reference to a minimum width of six inches in the example of a wide band which is used as a safety device. The change will clarify the definition.

Changes in Section 330.920(b) are being proposed to insure that the general consultation requirements conform to the requirements for activity program consultation which are included in Section 330.1310(c). The activity program consultation requirements in Section 330.1310(c) were changed in amendments which were adopted effective December 24, 1987.

Reference Corrections and Updates

Throughout the text of these rules, references to the Nursing Home Care Act are being updated. These changes reflect the changes in the Act and the latest edition of the Illinois Revised Statutes.

Section 330.340, which contains a list of all of the materials incorporated and referenced in these rules is being updated. Statutory references in this Section have been corrected and updated.

Section 330.2010 is being amended to eliminate the reference to the "latest edition of" the Department's food service sanitation rules. This reference is being replaced with the correct citation. References to the Capital Development Board's rules on handicapped accessibility to buildings are also being updated. The title and content of these rules was recently changed based on a comprehensive revision of the statute which authorized the Board to adopt these rules. These references are being updated in Sections 330.340(a)(4)(A) and 330.3040(a)(4).

References to various units of the Department which had responsibility

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for the licensure of alcoholism treatment programs are being updated in Section 330.300. As amended, these provisions will refer to the Department of Alcoholism and Substance Abuse which assumed responsibility for the licensure of alcoholism treatment programs in July 1988.

Additional Editorial Changes

The proposed amendments eliminate the use of the phrase "his/her" throughout the rules. The elimination of this phrase is accomplished by rephrasing the provisions in the plural, rather than the singular, or by replacing the pronoun with the subject, such as "resident's" or "employee's." The term "etc." is also eliminated throughout the rules. This term is usually unnecessary and may cause confusion by implying that the Department may impose additional requirements.

The proposed amendments also eliminate the use of "(s)," "(es)," and "(ies)" at the end of words to indicate singular or plural. These changes should clarify the application of the provisions. The phrase "and/or" is also eliminated in the proposed amendments. The proposed amendments clarify the provisions which use this term by clearly indicating whether either or both is intended. The proposed amendments also revise the use of numbers throughout the rules for consistency. Numbers of ten or less are written out in the rules, while numbers greater than ten are indicated by digits. The use of both forms of numbers at each occurrence is eliminated as unnecessary.

The Department believes that there will be little, if any, economic effect of these proposed amendments on the regulated public. The elimination of some requirements may reduce costs for some regulated facilities, although such reductions are likely to be minimal.

The Department anticipates that the amendments will be adopted prior to the expiration of the emergency amendments on March 24, 1989.

6) Will these Proposed Amendments Replace an Emergency Rule Currently in Effect? Yes.

These proposed amendments include emergency amendments which were adopted effective October 24, 1988. The Notice of Emergency Amendments appeared in the Illinois Register on November 14, 1988, at 12 Ill. Reg. 18939.

7) Does this Rulemaking contain an Automatic Repeal Date? No.

8) Do these Proposed Amendments Contain Incorporations By Reference? No.

9) Are there any other Proposed Amendments Pending on this Part? No.



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10) Statement of Statewide Policy Objectives:

This rulemaking neither creates nor expands a state mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Proposed Rulemaking:

Interested persons may present their comments concerning these rules by writing to Robert John Kane, Division of Governmental Affairs, Illinois Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761, within 45 days after this edition of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Administrative Procedure Act, any small business may present their comments in writing to Robert John Kane at the above address.

Any small business (as defined in Section 3.10 of the Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Date Rule was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

B) Type of Small Businesses Affected:

Long term care facilities

C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

No additional reporting, bookkeeping or other procedures are required for compliance.

D) Types of Professional Skills Necessary for Compliance:

No additional professional skills are necessary for compliance.

The full text of the Proposed Amendments begins on the next page:

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## NOTICE OF PROPOSED AMENDMENTS

TITLE 77 PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 330  
~~MINIMUM STANDARDS FOR CLASSIFICATION AND LICENSURE OF~~  
SHELTERED CARE FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

General Requirements  
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Licensee

Issuance of an Initial License For a New Facility  
Issuance of an Initial License Due to a Change of Ownership  
Issuance of a Renewal License

Criteria for Adverse License Actions

Denial of Initial License

Denial of Renewal of License

Revocation of License

Experimental Program Conflicting With Requirements

Inspections, Surveys, Evaluations and Consultations

Filing an Annual Attested Financial Statement

Information to be Made Available to the Public By the Department

Information to be Made Available to the Public By the Licensee

Municipal Licensing

Ownership Disclosure

Issuance of Conditional Licenses

Monitoring and Receivership

Determination to Issue a Notice of Violation or Administrative Warning

Determination of the Level of a Violation

Notice of Violation

Administrative Warning

Plans of Correction

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Conditions for Assessment of Penalties

Calculation of Penalties

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Quarterly List of Violators

Alcoholism Treatment Programs In Long Term Care Facilities

Department May Survey Facilities Formerly Licensed

Waive

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## SUBPART B: ADMINISTRATION

330.510 Administrator

## SUBPART C: POLICIES

330.710 Resident Care Policies  
 330.720 Admission and Discharge Policies  
 330.730 Contract Between Resident and Facility  
 330.740 Residents' Advisory Council  
 330.750 General Policies  
 330.760 Personnel Policies  
 330.765 Initial Health Evaluation for Employees  
 330.770 Disaster Preparedness  
 330.780 Serious Incidents and Accidents

## SUBPART D: PERSONNEL

330.910 Personnel  
 330.913 Nursing and Personal Care Assistants  
 330.916 Student Interns  
 330.920 Consultation Services  
 330.930 Personnel Policies

## SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

330.1110 Medical Care Policies  
 330.1120 Personal Care  
 330.1130 Communicable Disease Policies  
 330.1135 Tuberculin Skin Test Procedures  
 330.1140 Behavior Emergencies

## SUBPART F: RESTORATIVE SERVICES

330.1310 Activity Program  
 330.1320 Work Programs  
 330.1330 Written Policies for Restorative Services

## SUBPART G: MEDICATIONS

330.1510 Medication Policies  
 330.1520 Administration of Medication  
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## SUBPART H: RESIDENT AND FACILITY RECORDS

330.1710 Resident Record Requirements

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330.1720 Content of Medical Records  
 330.1730 Records Pertaining to Residents' Property  
 330.1740 Retention and Transfer of Resident Records  
 330.1750 Other Resident Record Requirements  
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## SUBPART I: FOOD SERVICE

330.1910 Director of Food Services  
 330.1920 Dietary Staff in Addition to Director of Food Services  
 330.1930 Hygiene of Dietary Staff  
 330.1940 Diet Orders  
 330.1950 Adequacy of Diet and Meal Pattern  
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 330.1980 Menu Planning  
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## SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

330.2210 Maintenance  
 330.2220 Housekeeping  
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## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

330.2410 Furnishings  
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## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

330.2610 Codes  
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SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW  
SHELTERED CARE FACILITIES

330.2810 Applicable Requirements (Repealed)  
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 330.2840 New Constructions, Additions, Conversions, and Alterations  
 330.2850 Preparation and Submission of Drawings and Specifications



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330.2860 First Stage Drawings  
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## SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

330.3310 Applicable Requirements (Repealed)  
 330.3320 Applicability of These Standards  
 330.3330 Fire Protection  
 330.3340 Fire Department Service and Water Supply  
 330.3350 ~~Building~~—General Building Requirements  
 330.3360 Exit Facilities and Subdivision of Floor Areas  
 330.3370 Stairways, Vertical Openings, and Doorways  
 330.3380 Corridors  
 330.3390 Exit Lights and Directional Signs  
 330.3400 Hazardous Areas and Combustible Storage  
 330.3410 Fire Alarm and Detection System  
 330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous  
 330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

## SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

330.3610 Site  
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 330.3630 Administration  
 330.3640 Corridors

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330.3650 Bath and Toilet Rooms  
 330.3660 Living, Dining, and Activity Room—~~(s)~~  
 330.3670 Bedrooms  
 330.3680 Special Care Room  
 330.3690 Kitchen  
 330.3700 Laundry Room  
 330.3710 Housekeeping and Service Rooms and Storage Space  
 330.3720 Plumbing and Heating  
 330.3730 Electrical

## SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

330.3910 Fire Protection  
 330.3920 Fire Department Service and Water Supply  
 330.3930 Occupancy and Fire Areas  
 330.3940 Exit Facilities and Subdivision of Floor Areas  
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 330.3960 Exit and Fire Escape Lights and Directional Signs  
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 330.3980 Fire Alarm and Detection System  
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 330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

## SUBPART Q: RESIDENT'S RIGHTS

330.4210 General  
 330.4220 Medical and Personal Care Program  
 330.4230 Restraints  
 330.4240 Abuse and Neglect  
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 330.4280 Contract With Facility  
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 330.4310 Complaint Procedures  
 330.4320 Confidentiality  
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## SUBPART R: DAY CARE PROGRAMS

330.4510 Day Care in Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities

APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service

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APPENDIX C Forms for Day Care in Long-Term Care Facilities  
 APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation  
 TABLE A Disaster Preparedness Parameters--Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care ~~Reform~~ Act  
~~of 1979~~ (Ill. Rev. Stat. 1987-1988, ch. 111 1/2, pars.  
 4151-101 et seq.).

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1,  
 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933,  
 effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May  
 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982;  
 amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at  
 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill.  
 Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973,  
 effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective  
 November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15,  
 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984;  
 codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241,  
 effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective  
 December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25,  
 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended  
 at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill.  
 Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg.  
 16870, effective October 1, 1988; emergency amendment at 12 Ill.  
 Reg. \_\_\_\_\_, effective \_\_\_\_\_, for a maximum of 150 days;  
 amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

NOTE: Italics and capitalization denote statutory language.

## SUBPART A: GENERAL PROVISIONS

## Section 330.110 General Requirements

- a) 1) This Part applies ~~These Minimum Standards, Rules and~~  
~~Regulations apply~~ to the operator/licensee of facilities,  
~~facilities,~~ or distinct part therein, that are to be licensed  
 and classified to provide sheltered care.
- 2) Any license issued and in effect prior to March 1, 1980 pursuant  
 to the "Nursing Homes, Sheltered Care Homes, and Homes For the  
 Aged Act" (Ill. Rev. Stat. 1977, ch. 111 1/2, pars. 35.16 et  
 seq.) shall remain valid and subject to the terms and conditions  
 of the "Nursing Home Care ~~Reform~~ Act ~~of 1979~~" (Ill. Rev.  
 Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4151-101 et seq.) (the

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## Section 330.110(a)(2) (continued)

Act) and all regulations promulgated thereunder until the  
 expiration date shown on the face of such license.

- b) The license issued to each operator/licensee shall designate the  
 licensee's name, facility name, address, the classification by level  
 of service authorized for that facility, the number of beds  
 authorized for each level, the date the license was issued and the  
 expiration date. Such licenses shall be issued for a period ~~not to~~  
~~exceed one (1) year~~ of NOT LESS THAN SIX MONTHS NOR MORE THAN 18  
 MONTHS. The Department will set the period of the license based on  
 the license expiration dates of the facilities in the geographical  
 area surrounding the facility IN ORDER TO DISTRIBUTE THE EXPIRATION  
 DATES as evenly as possible THROUGHOUT THE CALENDAR YEAR. (Ill. Rev.  
 Stat. 1987, ch. 111 1/2, par. 4153-110)
- c) An applicant may request that the license issued by the Department  
 have distinct parts classified according to levels of services. The  
 distinct part must satisfactorily meet the applicable physical plant  
 standards based on a level of service classification sought for that  
 distinct part. If necessary to protect the health, welfare and  
 safety of residents in a distinct part requiring higher standards,  
 the Department shall require compliance with whatever additional  
 physical plant standards are necessary in any distinct part ~~(s)~~, to  
 achieve this protection. Administrative, supervisory, and other  
 personnel may be shared by the entire facility, if so doing does not  
 adversely affect meeting the total needs of the residents of the  
 facility.
- d) THE OPERATOR MAY NOT ADMIT RESIDENTS IN EXCESS OF THE LICENSED  
 CAPACITY OF THE FACILITY. (See Section 330.280 Violations and  
 Penalties.) (B-G)
- e) A sheltered care facility licensed and classified under the Act shall  
 not use in its title or description "Hospital", "Sanitarium",  
 "Sanatorium", "Rehabilitation Center", "Skilled Nursing Facility", or  
 any other word or description in its title or advertisements which  
 indicates that a type of service is provided by the facility which  
 the facility is not licensed to provide or in fact, does not  
 provide. (G)
- f) Any person constructing or modifying a long-term care facility or  
 portion thereof without obtaining the required permit from the Health  
 Facilities Planning Board shall not be eligible to apply for  
 licensure for that facility or portion thereof (Ill. Rev. Stat.  
~~1983~~ 1987, ch. 111 1/2, par. 1163.1).



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## Section 330.110 (continued)

- g) THE LICENSEE SHALL GIVE ~~NINETY~~ 90 DAYS NOTICE PRIOR TO VOLUNTARILY CLOSING A FACILITY OR CLOSING ANY PART OF A FACILITY, OR PRIOR TO CLOSING ANY PART OF A FACILITY IF CLOSING SUCH PART WILL REQUIRE THE TRANSFER OR DISCHARGE OF MORE THAN TEN PERCENT ~~(40%)~~ OF THE RESIDENTS. SUCH NOTICE SHALL BE GIVEN TO THE DEPARTMENT, TO ANY RESIDENTS WHO MUST BE TRANSFERRED OR DISCHARGED, TO THE RESIDENT'S REPRESENTATIVE, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE. NOTICE SHALL STATE THE PROPOSED DATE OF CLOSING, AND THE REASON FOR CLOSING. THE LICENSEE SHALL OFFER TO ASSIST THE RESIDENT IN SECURING AN ALTERNATIVE PLACEMENT AND SHALL ADVISE THE RESIDENT ON AVAILABLE ALTERNATIVES. WHERE THE RESIDENT IS UNABLE TO CHOOSE AN ALTERNATE PLACEMENT AND IS NOT UNDER GUARDIANSHIP, THE DEPARTMENT SHALL BE NOTIFIED OF THE NEED FOR RELOCATION ASSISTANCE. THE FACILITY SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS UNTIL THE DATE OF CLOSING, INCLUDING THOSE RELATED TO TRANSFER OR DISCHARGE OF RESIDENTS. THE DEPARTMENT MAY PLACE A RELOCATION TEAM IN THE FACILITY AS PROVIDED UNDER THE ACT. (A, B)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.120 Application for License

- a) Any person acting individually or jointly with other persons who proposes to build, own, establish, or operate an intermediate care facility, ~~and/or~~ or skilled nursing facility shall submit pre-application information on forms provided by the Department. The Department shall be furnished a written description of the proposed program to be provided, and other such information as it may require in order to determine the appropriate level of care for which the facility should be licensed. The pre-application form and other required information shall be submitted and approved prior to surveys of the physical plant or review of building plans and specifications. ~~(C)~~
- b) A pre-application for a new facility shall be accompanied by a permit as required by the "Illinois Health Facilities Planning Act" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 1151 et seq.). ~~(C)~~
- c) APPLICATION FOR A LICENSE TO ESTABLISH OR OPERATE AN INTERMEDIATE CARE FACILITY, ~~AND/OR~~ OR SKILLED NURSING FACILITY SHALL BE MADE IN WRITING AND SUBMITTED, WITH OTHER SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE, ON FORMS PROVIDED BY THE DEPARTMENT.
- d) ALL APPLICATIONS, EXCEPT THOSE OF HOMES FOR THE AGED, SHALL BE

## DEPARTMENT OF PUBLIC HEALTH

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## Section 330.120(d) (continued)

ACCOMPANIED BY AN APPLICATION FEE OF ~~TWO HUNDRED~~ 200 DOLLARS. THE APPLICATION SHALL BE UNDER OATH AND THE SUBMISSION OF FALSE OR MISLEADING INFORMATION SHALL BE A CLASS A MISDEMEANOR. THE APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION:

- 1) THE NAME AND ADDRESS OF THE APPLICANT IF AN INDIVIDUAL, AND IF A FIRM, PARTNERSHIP, OR ASSOCIATION, OF EVERY MEMBER THEREOF, AND IN THE CASE OF A CORPORATION, THE NAME AND ADDRESS THEREOF AND OF ITS OFFICERS AND ITS REGISTERED AGENT, AND IN THE CASE OF A UNIT OF LOCAL GOVERNMENT, THE NAME AND ADDRESS OF ITS CHIEF EXECUTIVE OFFICER;
- 2) THE NAME AND LOCATION OF THE FACILITY FOR WHICH A LICENSE IS SOUGHT;
- 3) THE NAME OF THE PERSON OR PERSONS UNDER WHOSE MANAGEMENT OR SUPERVISION THE FACILITY WILL BE CONDUCTED;
- 4) THE NUMBER AND TYPE OF RESIDENTS FOR WHICH MAINTENANCE, PERSONAL CARE, OR NURSING IS TO BE PROVIDED; AND
- 5) SUCH INFORMATION RELATING TO THE NUMBER, EXPERIENCE, AND TRAINING OF THE EMPLOYEES OF THE FACILITY, ANY MANAGEMENT AGREEMENTS FOR THE OPERATION OF THE FACILITY, AND OF THE MORAL CHARACTER OF THE APPLICANT AND EMPLOYEES AS THE DEPARTMENT MAY DEEM NECESSARY. ~~(C)~~ (Ill. Rev. Stat. 1987 ~~1985 Supp.~~, ch. 111 1/2, par. 4153-103(2).

e)

- 1) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when the facility is sold, or leased; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be. ~~(C)~~
- 2) A license issued to a corporation shall become null, void and of no further effect upon the dissolution of the corporation. The license shall not be revived if the corporation is subsequently reinstated. A new license must be obtained in such cases. ~~(C)~~

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## Section 330.120 (continued)

- f) EACH INITIAL APPLICATION SHALL BE ACCOMPANIED BY A FINANCIAL STATEMENT SETTING FORTH THE FINANCIAL CONDITION OF THE APPLICANT AND BY A STATEMENT FROM THE UNIT OF LOCAL GOVERNMENT HAVING ZONING JURISDICTION OVER THE FACILITY'S LOCATION STATING THAT THE LOCATION OF THE FACILITY IS NOT IN VIOLATION OF A ZONING ORDINANCE. AN INITIAL APPLICATION FOR A NEW FACILITY SHALL BE ACCOMPANIED BY A PERMIT AS REQUIRED BY THE "ILLINOIS HEALTH FACILITIES PLANNING ACT". AFTER THE APPLICATION IS APPROVED, THE APPLICANT SHALL ADVISE THE DEPARTMENT EVERY ~~6~~ SIX MONTHS OF ANY CHANGES IN THE INFORMATION ORIGINALLY PROVIDED IN THE APPLICATION. (Ill. Rev. Stat. 1987 ~~1985~~ ~~Supp.~~, ch. 111 1/2, par. 4153-103(3).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.130 Licensee

- a) The licensee is the corporate body, political subdivision, individual, or individuals responsible for the operation of the facility and upon whom rests the responsibility for meeting the licensing requirements. The licensee does not have to own the building being used.
- b) If the licensee does not own the building, a lease or management agreement between the licensee and the owner of the building is required. A copy of the lease or management agreement shall be furnished to the Department. The Department shall also be provided with a copy of all new lease agreements or any changes to existing agreements within ~~thirty~~ ~~(30)~~ days of the effective date of such changes. ~~(6)~~
- c) If the licensee is not a corporation or a political subdivision of the State of Illinois, each person responsible for the operation of the facility and upon whom rests the responsibility for meeting the licensing Minimum Standards, Rules and Regulations shall be at least ~~eighteen~~ ~~(18)~~ years of age. ~~(6)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.140 Issuance of an Initial License For a New Facility

- a) UPON RECEIPT AND REVIEW OF AN APPLICATION FOR A LICENSE AND INSPECTION OF THE APPLICANT FACILITY, THE DIRECTOR SHALL ISSUE A PROBATIONARY LICENSE IF HE FINDS:

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## Section 330.140(a) (continued)

- 1) THE APPLICANT IS A PERSON RESPONSIBLE AND SUITABLE TO OPERATE OR TO DIRECT OR PARTICIPATE IN THE OPERATION OF A FACILITY BY VIRTUE OF FINANCIAL CAPACITY, APPROPRIATE BUSINESS OR PROFESSIONAL EXPERIENCE, A RECORD OF COMPLIANCE WITH LAWFUL ORDERS OF THE DEPARTMENT AND LACK OF REVOCATION OF A LICENSE DURING THE PREVIOUS FIVE ~~(5)~~ YEARS; AND
- 2) THE FACILITY IS IN SUBSTANTIAL COMPLIANCE WITH THE ~~"NURSING-HOME CARE REFORM ACT OF 1979"~~ AND THIS PART ~~THESE RULES~~.
- b) THE DEPARTMENT WILL ISSUE A PROBATIONARY LICENSE FOR ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS FROM DATE OF ISSUANCE.
- c) DURING THE ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAY PERIOD OF THE PROBATIONARY LICENSE, THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION OF THE APPLICANT WITHIN ~~THIRTY~~ ~~(30)~~ DAYS OF THE TERMINATION OF THE PROBATIONARY LICENSE TO DETERMINE WHETHER OR NOT THE APPLICANT THEN COMPLIES, AND IF NOT, WHETHER SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE. IF IN COMPLIANCE, THE PROBATIONARY LICENSE WILL BE REPLACED WITH A FULL STATUS LICENSE. IF NOT IN COMPLIANCE AND SATISFACTORY PROGRESS TOWARDS COMPLIANCE IS NOT BEING MADE, THE DEPARTMENT WILL ALLOW THE PROBATIONARY LICENSE TO EXPIRE.
- d) IF THE APPLICANT IS FOUND NOT TO BE IN COMPLIANCE BUT SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE, A SECOND PROBATIONARY LICENSE OF UP TO ~~ONE HUNDRED TWENTY~~ ~~(120)~~ DAYS MAY BE ISSUED. UNDER NO CONDITION MAY MORE THAN TWO ~~(2)~~ SUCCESSIVE PROBATIONARY LICENSES BE ISSUED.
- e) PRIOR TO ACTUAL RECEIPT BY THE OPERATOR OF THE LICENSE CERTIFICATE, THE OPERATOR MAY BEGIN OPERATION UPON RECEIPT OF WRITTEN APPROVAL BY THE DEPARTMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.150 Issuance of an Initial License Due to a Change of Ownership

- a) UPON RECEIPT AND REVIEW OF AN APPLICATION FOR A LICENSE THE DIRECTOR SHALL ISSUE A PROBATIONARY LICENSE IF HE FINDS:

- 1) THE APPLICANT IS A PERSON RESPONSIBLE AND SUITABLE TO OPERATE OR TO DIRECT OR TO PARTICIPATE IN THE OPERATION OF A FACILITY BY VIRTUE OF FINANCIAL CAPACITY, APPROPRIATE BUSINESS OR



## Section 330.150(a)(1) (continued)

PROFESSIONAL EXPERIENCE, A RECORD OF COMPLIANCE WITH LAWFUL ORDERS OF THE DEPARTMENT AND LACK OF REVOCATION OF A LICENSE DURING THE PREVIOUS FIVE ~~(5)~~ YEARS; AND

- 2) THE FACILITY IS IN SUBSTANTIAL COMPLIANCE WITH THE ~~"NURSING-HOME CARE REFORM" ACT OF 1979~~ AND THIS PART ~~THAT~~ ~~THESE~~ ~~RULES~~.

- b) WHENEVER OWNERSHIP OF A FACILITY IS TRANSFERRED FROM THE PERSON NAMED IN A LICENSE TO ANY OTHER PERSON, THE TRANSFEREE MUST OBTAIN A NEW PROBATIONARY LICENSE. THE TRANSFEREE SHALL NOTIFY THE DEPARTMENT OF THE TRANSFER AND APPLY FOR A NEW LICENSE AT LEAST ~~THIRTY (30)~~ DAYS PRIOR TO FINAL TRANSFER. ~~(G)~~

- c) THE TRANSFEROR SHALL NOTIFY THE DEPARTMENT AT LEAST ~~THIRTY (30)~~ DAYS PRIOR TO FINAL TRANSFER. THE TRANSFEROR SHALL REMAIN RESPONSIBLE FOR THE OPERATION OF THE FACILITY UNTIL SUCH TIME AS THE LICENSE IS ISSUED TO THE NEW TRANSFEREE. ~~(G)~~

- d) THE LICENSE GRANTED TO THE TRANSFEREE SHALL BE SUBJECT TO A PLAN OF CORRECTION SUBMITTED BY THE PREVIOUS OWNER AND APPROVED BY THE DEPARTMENT AND ANY CONDITIONS CONTAINED IN A CONDITIONAL LICENSE ISSUED TO THE PREVIOUS OWNER. IF THERE ARE OUTSTANDING VIOLATIONS AND NO PLAN OF CORRECTION HAS BEEN SUBMITTED BY THE FACILITY AND APPROVED BY THE DEPARTMENT, THE DEPARTMENT MAY ISSUE A CONDITIONAL LICENSE AND PLAN OF CORRECTION AS PROVIDED IN SECTION 3-311 THROUGH 3-317 OF THE ~~"NURSING-HOME CARE REFORM" ACT OF 1979~~ IN PLACE OF A PROBATIONARY LICENSE. ~~(G)~~

- e) THE TRANSFEROR SHALL REMAIN LIABLE FOR ALL PENALTIES ASSESSED AGAINST THE FACILITY WHICH ARE IMPOSED FOR VIOLATIONS OCCURRING PRIOR TO TRANSFER OF ~~OR~~ OWNERSHIP. ~~(G)~~

- f) THE DEPARTMENT WILL ISSUE A PROBATIONARY LICENSE FOR ~~ONE HUNDRED TWENTY (120)~~ DAYS FROM DATE OF ISSUANCE.

- g) DURING THE ~~ONE HUNDRED TWENTY (120)~~ DAYS OF THE PROBATIONARY LICENSE, THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION OF THE APPLICANT WITHIN ~~THIRTY (30)~~ DAYS OF THE TERMINATION OF THE PROBATIONARY LICENSE TO DETERMINE WHETHER OR NOT THE APPLICANT THEN COMPLETES, AND IF NOT, WHETHER SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE. IF IN COMPLIANCE, THE PROBATIONARY LICENSE WILL BE REPLACED WITH A FULL STATUS LICENSE. IF NOT IN COMPLIANCE AND SATISFACTORY PROGRESS TOWARD COMPLIANCE IS NOT BEING MADE, THE DEPARTMENT WILL ALLOW THE PROBATIONARY LICENSE TO EXPIRE.

## Section 330.160 (continued)

IF THE APPLICANT IS FOUND NOT TO BE IN COMPLIANCE BUT SATISFACTORY PROGRESS IS BEING MADE TOWARD COMPLIANCE, A SECOND PROBATIONARY LICENSE OF UP TO ~~ONE HUNDRED TWENTY (120)~~ DAYS MAY BE ISSUED. UNDER NO CONDITION MAY MORE THAN TWO ~~(2)~~ SUCCESSIVE PROBATIONARY LICENSES BE ISSUED.

- i) The issuance date of the probationary license to the new owner will be the date the last licensure requirement is met as determined by the Department. Prior to actual receipt by the operator or the license certificate, the operator may begin operation upon receipt of written approval by the Department.

(Source: Amended at 13 Ill. Reg.           , effective           )

## Section 330.160 Issuance of a Renewal License

AT LEAST ~~ONE HUNDRED TWENTY (120)~~ DAYS, BUT NOT MORE THAN ~~ONE HUNDRED FIFTY (150)~~ DAYS, PRIOR TO LICENSE EXPIRATION, THE LICENSEE SHALL SUBMIT AN APPLICATION FOR RENEWAL OF THE LICENSE IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE DEPARTMENT REQUIRES. IF THE APPLICATION IS APPROVED, AND THE FACILITY IS IN COMPLIANCE WITH ALL OTHER LICENSE REQUIREMENTS, THE LICENSE SHALL BE RENEWED FOR AN ADDITIONAL ONE YEAR PERIOD. (See Section 330.240 for Municipal Licensing requirements.) ~~(G)~~

(Source: Amended at 13 Ill. Reg.           , effective           )

## Section 330.165 Criteria for Adverse Licensure Actions

- a) Adverse licensure actions are determinations to deny the issuance of an initial license, to deny the issuance of a renewal of a license, or to revoke the current license of a facility.

- b) A determination by the Director or his designee to take adverse licensure action against a facility shall be based on a finding that one or more of the following criteria are met:

- 1) The facility has SUBSTANTIALLY FAILED TO MEET ANY OF THE MINIMUM STANDARDS SET FORTH IN THE ACT OR THESE RULES. For purposes of this provision, substantial failure is a failure to meet the requirements of this Part which is other than a variance from strict and literal performance which results only in unimportant omissions or defects given the particular circumstances

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## Section 330.165(b)(1) (continued)

- involved. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(1) and 4153-119(a)(1))
- 2) THE LICENSEE OR APPLICANT, OR THE PERSON DESIGNATED TO MANAGE OR SUPERVISE THE FACILITY HAS BEEN CONVICTED OF ANY OF THE FOLLOWING CRIMES DURING THE PREVIOUS FIVE YEARS. Such convictions shall be verified by A CERTIFIED COPY OF THE RECORD OF THE COURT OF CONVICTION.
- A) A FELONY.
- B) TWO OR MORE MISDEMEANORS INVOLVING MORAL TURPITUDE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(2) and 4153-119(a)(2))
- 3) THE MORAL CHARACTER OF THE LICENSEE, ADMINISTRATOR, MANAGER, OR SUPERVISOR OF THE FACILITY IS NOT REPUTABLE. Evidence to be considered will include verifiable statements by residents of a facility, law enforcement officials, or other persons with knowledge of the individual's character. In addition, the definition afforded to the terms "reputable," "unreputable," and "irreputable" by the circuit courts of the State of Illinois shall apply when appropriate to the given situation. For purposes of this Section, a manager or supervisor of the facility is an individual with responsibility for the overall management, direction, coordination, or supervision of the facility or the facility staff. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(2) and 4153-119(a)(2))
- 4) The facility is operating (or, for an initial applicant, intends to operate) with personnel which are insufficient in number or unqualified by training or experience to properly care for the number and type of residents in the facility. Standards in these rules concerning personnel, including Sections 330.910, 330.920, and 330.930, will be considered in making this determination. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(3) and 4153-119(a)(3))
- 5) The facility has available insufficient financial or other resources to operate the facility in accordance with these rules. Financial information and changes in financial information provided by the facility under Section 330.120(f) and under Section 3-208 of the Act will be considered in making this determination. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-208)

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## Section 330.165(b) (continued)

- 6) THE FACILITY IS NOT UNDER THE DIRECT SUPERVISION OF A FULL-TIME ADMINISTRATOR as required by Section 330.510. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(6) and 4153-119(a)(5))
- 7) The facility has violated the rights of residents of the facility by any of the following actions:
- A) A pervasive pattern of cruelty or indifference to residents has occurred in the facility.
- B) The facility has appropriated or converted for its use the property of a resident without his written consent or the consent of his legal guardian.
- C) The facility has secured property, or a bequest of property, from a resident by undue influence.
- 8) The facility knowingly submitted false information either on the licensure or renewal application forms or during the course of an inspection or survey of the facility.
- 9) The facility has refused to allow an inspection or survey of the facility by agents of the Department to occur.
- c) The Director or his designee shall consider all available evidence at the time of the determination, including the history of the facility and the applicant in complying with the Act and these rules, notices of violations which have been issued to the facility and the applicant, findings of surveys and inspections, and any other evidence provided by the facility, residents, law enforcement officials and other interested individuals.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.170 Denial of Initial License

- a) A determination by the Director or his designee to deny the issuance of an initial license shall be based on a finding that one or more of the criteria outlined in Section 330.165 or the following criteria are met.
- 1) THE APPLICANT, ANY MEMBER OF THE FIRM, PARTNERSHIP, OR ASSOCIATION WHICH IS THE APPLICANT, ANY OFFICER OR STOCKHOLDER OF THE CORPORATION WHICH IS THE APPLICANT, OR THE PERSON



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## Section 330.170(a)(1) (continued)

DESIGNATED TO MANAGE OR SUPERVISE THE FACILITY HAS BEEN CONVICTED OF any of the following crimes DURING THE PREVIOUS FIVE YEARS. Such convictions shall be verified by a CERTIFIED COPY OF THE RECORD OF THE COURT OF CONVICTION.

- A) A FELONY.
- B) TWO OR MORE MISDEMEANORS INVOLVING MORAL TURPITUDE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(2))
- 2) Prior license revocation. Both of the following conditions must be met:
  - A) The license of a facility under this Act has been REVOKED DURING THE PAST FIVE YEARS, which was owned or operated BY THE APPLICANT, BY A CONTROLLING OWNER OF THE APPLICANT, BY A CONTROLLING COMBINATION OF OWNERS OF THE APPLICANT, OR BY AN AFFILIATE WHO IS A CONTROLLING OWNER OF THE APPLICANT. Operation for the purposes of this provision shall include individuals with responsibility for the overall management, direction, or supervision of the facility.
  - B) SUCH PRIOR REVOCATION RENDERS THE APPLICANT UNQUALIFIED OR INCAPABLE OF MAINTAINING A FACILITY IN ACCORDANCE WITH THE MINIMUM STANDARDS SET FORTH IN THE ACT OR IN THESE RULES. This determination will be based on the applicant's qualifications and ability to meet the criteria outlined in Section 330.165(b) as evidenced by the application and the applicant's prior history. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-117(5))

- b) The Department shall notify an applicant IMMEDIATELY UPON DENIAL OF ANY APPLICATION. Such notice shall be IN WRITING and shall include:

- 1) A CLEAR AND CONCISE STATEMENT of the basis of the denial. The statement shall include a citation to the provisions of Section 3-117 of the Act and the provisions of these rules under which the application is being denied.
- 2) A description of THE RIGHT OF THE APPLICANT TO APPEAL THE DENIAL OF THE APPLICATION and the right to a hearing. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-118)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.175 Denial of Renewal of License

- a) Application for renewal of a license of a facility shall be denied and the license of the facility shall be allowed to expire when the Director or his designee finds that a condition, occurrence, or situation in the facility meets any of the criteria specified in Section 330.165(b).

- b) When the Director or his designee determines that an application for renewal of a license of a facility is to be denied, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:

- 1) A CLEAR AND CONCISE STATEMENT of the basis of the denial. The statement shall include a citation to the provisions of the Act and these rules on which the application for renewal is being denied.
- 2) A statement of the date on which the current license of the facility will expire as provided in Subsection (c) of this Section and Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).
- 3) A description of THE RIGHT OF THE APPLICANT TO APPEAL THE DENIAL OF THE APPLICATION FOR RENEWAL AND THE RIGHT TO A HEARING. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(b))
- c) The effective date of the nonrenewal of a license shall be as provided in Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).
- d) The current license of the facility shall be EXTENDED BY THE DEPARTMENT when it finds that such extension is necessary TO PERMIT ORDERLY REMOVAL AND RELOCATION OF RESIDENTS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)(3))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.180 Revocation of License

- a) The license of a facility shall be revoked when the Director or his designee finds that a condition, occurrence or situation in the facility meets any of the criteria specified in Section 330.165(b). In addition, the license of a facility will be revoked when the facility fails to abate or eliminate a level A violation as provided in Section 330.282(b).

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## Section 330.180 (continued)

## Section 330.200 Inspections, Surveys, Evaluations and Consultation

- b) When the Director or his designee determines that the license of a facility is to be revoked, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:
- 1) A CLEAR AND CONCISE STATEMENT of the basis of the revocation. The statement shall include a citation to the provisions of the Act and these rules on which the license is being revoked.
  - 2) A statement of the date on which the revocation will take effect as provided in Subsection (c) of this Section and Section 3-119(d) of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)).
  - 3) A description of THE RIGHT OF THE FACILITY TO APPEAL THE REVOCATION OF THE LICENSE AND THE RIGHT TO A HEARING. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(b)).
  - c) The effective date of the revocation of a license shall be as provided in Section 3-119(d) of the Act. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d))
  - d) The effective date of the revocation shall be EXTENDED BY THE DEPARTMENT when it finds that such extension is necessary TO PERMIT ORDERLY REMOVAL AND RELOCATION OF RESIDENTS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-119(d)(3))
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.190 Experimental Program Conflicting With Requirements

- a) Any facility desiring to conduct an experimental program or do research which is in conflict with this Part ~~these rules~~ shall submit a written request to the Department and secure prior approval. The Department will not approve experimental programs which would violate residents' rights under the Act. (A, B)
  - b) The Department may grant to a facility special permission to provide day care when it has adequate facilities and staff to satisfactorily provide such services based on the requirements in Section 330.4510.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

- a) The terms survey, inspection and evaluation are synonymous. These items refer to the overall examination of compliance with the Act and the regulations of the Part. All facilities to which this Part applies shall be subject to and shall be deemed to have given consent to annual inspections, surveys or evaluations by properly identified personnel of the Department, or by such other properly identified persons, including local health department staff, as the Department may designate. AN INSPECTION, SURVEY OR EVALUATION, OTHER THAN AN INSPECTION OF FINANCIAL RECORDS, SHALL BE UNANNOUNCED. CONSULTATIONS MAY BE ANNOUNCED. (Ill. Rev. Stat. ~~1986-Supp~~ 1987, ch. 111 1/2, par. 4153-212). The licensee, or person representing the licensee in the facility, shall provide to the representative of the Department access and entry to the premises or facility for obtaining information required to carry out this Act and the rules promulgated under the Act. IN ADDITION, REPRESENTATIVES OF THE DEPARTMENT SHALL HAVE ACCESS TO AND MAY REPRODUCE OR PHOTOCOPY AT THE DEPARTMENT'S COST ANY BOOKS, RECORDS, AND OTHER DOCUMENTS MAINTAINED BY THE FACILITY, THE LICENSEE OR THEIR REPRESENTATIVES TO THE EXTENT NECESSARY TO CARRY OUT THIS ACT AND THE RULES PROMULGATED THEREUNDER (Ill. Rev. Stat. ~~1985-Supp~~ 1987, ch. 111 1/2, par. 4153-213). A facility may charge the Department for photocopying at a rate determined by the facility not to exceed the rate in the Department's Freedom of Information Rules, Ill. Adm. Code 1126.

- b) BEFORE MAKING EXTRA INSPECTIONS, SURVEYS AND EVALUATIONS OF A FACILITY, THE DEPARTMENT SHALL HAVE TAKEN INTO ACCOUNT THE FOLLOWING CRITERIA:

- 1) PREVIOUS INSPECTION REPORTS;
- 2) THE FACILITY'S HISTORY OF COMPLIANCE WITH THE ACT:
  - A) PRIOR CORRECTION OF VIOLATIONS;
  - B) PRIOR ENFORCEMENT ACTIONS;
  - C) NUMBER AND SEVERITY OF PRIOR COMPLAINTS;
- 3) NUMBER AND SEVERITY OF CURRENT COMPLAINTS;
- 4) ALLEGATIONS OF RESIDENT ABUSE OR NEGLIGENCE;
- 5) COMPLIANCE WITH DISASTER PREPAREDNESS PROVISIONS UNDER THE ACT;
- 6) OTHER REASONABLE BELIEF THAT DEFICIENCIES REGARDING THE ACT



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~~AND/OR~~ EXIST. ~~(C)~~ (Ill. Rev. Stat. ~~1985, Supp.~~ 1987, ch. 111 1/2, par. 4153-212(b))

- c) UPON THE COMPLETION OF EACH INSPECTION, SURVEY AND EVALUATION, THE REPRESENTATIVE OF THE DEPARTMENT WHO CONDUCTED THE INSPECTION, SURVEY OR EVALUATION SHALL SUBMIT A COPY OF THEIR REPORT TO THE LICENSEE OR THEIR REPRESENTATIVE, UPON EXITING THE FACILITY. A copy of the information gathered during a complaint investigation will not be provided upon exiting the facility. COMMENTS OR DOCUMENTATION WHICH EXPLAIN EXTENUATING CIRCUMSTANCES THAT THE FACILITY COULD NOT REASONABLY HAVE PREVENTED OR WHICH INDICATE METHODS AND TIMETABLES FOR CORRECTION OF DEFICIENCIES DESCRIBED IN THE REPORT SHALL BE PROVIDED TO THE DEPARTMENT WITHIN ~~10~~ TEN DAYS OF RECEIPT OF THE COPY OF THE REPORT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-212(c)).

- d) Consultation consists of providing advice or suggestions to the staff of a facility at their request relative to specific methods of the scope of regulation, method of compliance with the Act or rules, ~~and/or~~ and general matters of patient care.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 330.210 Filing an Annual Attested Financial Statement

- a) 1) EACH LICENSEE SHALL SUBMIT AN ANNUAL ATTESTED FINANCIAL STATEMENT TO THE DEPARTMENT. THIS FINANCIAL STATEMENT SHALL BE FILED IN A PRESCRIBED FORMAT ON FORMS SUPPLIED BY THE DEPARTMENT. THE FORMS WILL BE DEVELOPED IN CONJUNCTION WITH THE ILLINOIS DEPARTMENT OF PUBLIC AID. ~~(C)~~
- 2) The time period covered in the financial statement shall be a period determined by the Department for the initial filing, and shall thereafter coincide with the facility's fiscal year or the calendar year. ~~(C)~~
- b) The Department may require any facility to file an audited financial statement, if the Department determines that such a statement is needed.
- c) 1) The Department may require any or all facilities to submit

Section 330.210(c)(1) (continued)

attested or audited financial statements more frequently than annually, if the Department determines that more frequent financial statements are needed.

- 2) The frequency and time period of such filings shall be as determined by the Department for each individual facility.

d)

- 1) The financial statement shall be filed with the Department within ~~thirty (30)~~ days following the end of the designated reporting period. ~~(C)~~

- 2) The financial statement will not be considered as having been filed unless all sections of the prescribed forms have been properly completed. Those sections which do not apply to a particular facility shall be noted "not applicable" on the forms. ~~(C)~~

- e) The information required to be submitted in the financial statement will include, but is not limited to, the following:

- 1) Facility information, including: facility name and address, licensure information, type of ownership, licensed bed capacity, date and cost of building construction and additions, date and cost of acquisition of buildings, building sizes, equipment costs and dates of acquisition. ~~(C)~~

- 2) Resident information, including: number and level of care of residents by source of payment, income from residents by level of care. ~~(C)~~

- 3) Cost information by level of care, including:

- A) General service costs; such as dietary, food, housekeeping, laundry, utilities, and plant operation and maintenance. ~~(C)~~

- B) Health care costs; such as medical director, nursing, medications, oxygen, activities, medical records, other medical services, social services, and utilization reviews. ~~(C)~~

- C) General Administration; such as administrative salaries, professional services, fees, subscriptions, promotional, insurance, travel, clerical, employee benefits, license

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## Section 330.210(e)(3)(C) (continued)

- fees, and inservice training and education. ~~(C)~~
- D) Ownership; such as depreciation, interest, taxes, rent, and leasing. ~~(C)~~
- E) Special Service cost centers; such as rehabilitative and rehabilitative services, therapies, transportation, education, barber and beauty care, and gift and coffee shop. ~~(C)~~
- 4) Income information, including operating and nonoperating income. ~~(C)~~
- 5) Ownership information, including balance sheet and payment to owners. ~~(C)~~
- 6) Personnel information, including the number and type of people employed and salaries paid. ~~(C)~~
- 7) Related organization information, including related organizations from which services are purchased. ~~(C)~~
- f) The new owner or a new lessee of a previously licensed facility may file a projection of capital costs at the time of closing or signing of the lease. ~~(C)~~
- 1) A facility which is licensed for the first time (a newly constructed facility) must file a projection of capital costs. ~~(C)~~
- 2) Each of the above must file a full cost report within nine ~~(C)~~ months after acquisition (covering the first six ~~(C)~~ months of operation.). Each must also file a cost report within ~~ninety~~ ~~(C)~~ 90 days of the close of its first complete fiscal year. ~~(C)~~
- g) NO PUBLIC FUNDS SHALL BE EXPENDED FOR THE MAINTENANCE OF ANY RESIDENT IN ANY FACILITY WHICH HAS FAILED TO FILE THIS FINANCIAL STATEMENT, AND NO PUBLIC FUNDS SHALL BE PAID TO, OR ON BEHALF OF, A FACILITY WHICH HAS FAILED TO FILE THE STATEMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.220 Information to Be Made Available to the Public By the Department

- a) THE DEPARTMENT SHALL RESPECT THE CONFIDENTIALITY OF A RESIDENT'S RECORD AND SHALL NOT DIVULGE OR DISCLOSE THE CONTENTS OF A RECORD IN A MANNER WHICH IDENTIFIES A RESIDENT, EXCEPT UPON A RESIDENT'S DEATH TO A RELATIVE OR GUARDIAN, OR UNDER JUDICIAL PROCEEDINGS. THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF A RESIDENT OR A RESIDENT'S REPRESENTATIVE TO INSPECT OR COPY THE RESIDENT'S RECORDS.
- b) CONFIDENTIAL MEDICAL, SOCIAL, PERSONAL OR FINANCIAL INFORMATION IDENTIFYING A RESIDENT SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION IN A MANNER WHICH IDENTIFIES A RESIDENT. ~~(C)~~
- c) THE FOLLOWING INFORMATION IS SUBJECT TO DISCLOSURE TO THE PUBLIC FROM THE DEPARTMENT OR THE DEPARTMENT OF PUBLIC AID:
- 1) INFORMATION SUBMITTED UNDER SECTIONS 3-103 AND 3-207 OF THE ACT, EXCEPT INFORMATION CONCERNING THE REMUNERATION OF PERSONNEL LICENSED, REGISTERED, OR CERTIFIED BY THE DEPARTMENT OF REGISTRATION AND EDUCATION AND MONTHLY CHARGES FOR AN INDIVIDUAL PRIVATE RESIDENT;
  - 2) RECORDS OF LICENSE AND CERTIFICATION INSPECTIONS, SURVEYS, AND EVALUATIONS OF FACILITIES, OTHER REPORTS OF INSPECTIONS, SURVEYS, AND EVALUATIONS OF RESIDENT CARE, AND REPORTS CONCERNING A FACILITY PREPARED PURSUANT TO TITLES XVII AND XIX OF THE SOCIAL SECURITY ACT, (42 U.S.C.A. 1395 et seq. and 1396 et seq.) SUBJECT TO THE PROVISIONS OF THE SOCIAL SECURITY ACT (42 U.S.C.A. 301 et seq.);
  - 3) COST AND REIMBURSEMENT REPORTS SUBMITTED BY A FACILITY UNDER SECTION 3-208 OF THE ACT REPORTS OF AUDITS OF FACILITIES, AND OTHER PUBLIC RECORDS CONCERNING THE COST INCURRED BY, REVENUES RECEIVED BY, AND REIMBURSEMENT OF FACILITIES;
  - 4) COMPLAINTS FILED AGAINST A FACILITY AND COMPLAINT INVESTIGATION REPORTS, EXCEPT THAT A COMPLAINT OR COMPLAINT INVESTIGATION REPORT SHALL NOT BE DISCLOSED TO A PERSON OTHER THAN THE COMPLAINANT OR COMPLAINANT'S REPRESENTATIVE BEFORE IT IS DISCLOSED TO A FACILITY UNDER SECTION 3-702 OF THE ACT, AND, FURTHER, EXCEPT THAT A COMPLAINT OR RESIDENT'S NAME SHALL NOT BE DISCLOSED EXCEPT UNDER SECTION 3-702 OF THE ACT.
  - 5) THE DEPARTMENT SHALL DISCLOSE INFORMATION UNDER THIS SECTION IN ACCORDANCE WITH PROVISIONS FOR INSPECTION AND COPYING OF PUBLIC RECORDS REQUIRED BY THE FREEDOM OF INFORMATION ACT (Ill. Rev. Stat. ~~1984-Supp.~~ 1987, ch. 116, par. 201 et seq.); AND



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## Section 330.220(c) (continued)

- 6) HOWEVER, THE DISCLOSURE OF INFORMATION DESCRIBED IN SUBSECTION (1) SHALL NOT BE RESTRICTED BY ANY PROVISION OF THE FREEDOM OF INFORMATION ACT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4152-205).

- d) Copies of reports available to the public may be obtained by making a written request to the Department in accordance with the Department's Freedom of Information rules - Ill. Adm. Code 1124. However, access to cost reports shall be governed by Department of Public Aid rule "Access to Cost Reports" (89 Ill. Adm. Code 140.544). The Department may, at its discretion, waive this fee if the party requesting the material is involved in legal action with the Department.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.230 Information to be Made Available to the Public By the Licensee

- a) EVERY FACILITY SHALL CONSPICUOUSLY POST OR DISPLAY IN AN AREA OF IT ACCESSIBLE TO RESIDENTS, EMPLOYEES, AND VISITORS THE FOLLOWING:

- 1) ITS CURRENT LICENSE: ~~(C)~~
  - 2) A DESCRIPTION, PROVIDED BY THE DEPARTMENT OF COMPLAINT PROCEDURES ESTABLISHED UNDER THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ AND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF A PERSON AUTHORIZED BY THE DEPARTMENT TO RECEIVE COMPLAINTS: ~~(C)~~
  - 3) A COPY OF ANY ORDER PERTAINING TO THE FACILITY ISSUED BY THE DEPARTMENT OR A COURT; AND ~~(C)~~
  - 4) A LIST OF THE MATERIAL AVAILABLE FOR PUBLIC INSPECTION UNDER SECTION 3-210 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ ~~(C)~~
- b) A FACILITY SHALL RETAIN THE FOLLOWING FOR PUBLIC INSPECTION:
- 1) A COMPLETE COPY OF EVERY INSPECTION REPORT OF THE FACILITY RECEIVED FROM THE DEPARTMENT DURING THE PAST FIVE ~~(5)~~ YEARS; ~~(C)~~
  - 2) A COPY OF EVERY ORDER PERTAINING TO THE FACILITY ISSUED BY THE DEPARTMENT OR A COURT DURING THE PAST FIVE ~~(5)~~ YEARS; ~~(C)~~

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## Section 330.230(b) (continued)

- 3) A DESCRIPTION OF THE SERVICES PROVIDED BY THE FACILITY AND THE RATES CHARGED FOR THOSE SERVICES AND ITEMS FOR WHICH A RESIDENT MAY BE SEPARATELY CHARGED; ~~(C)~~
- 4) A COPY OF THE STATEMENT OF OWNERSHIP REQUIRED BY SECTION 3-207 OF THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~; ~~(C)~~
- 5) A RECORD OF PERSONNEL EMPLOYED OR RETAINED BY THE FACILITY WHO ARE LICENSED, CERTIFIED OR REGISTERED BY THE DEPARTMENT OF PROFESSIONAL REGULATION ~~REGISTRATION AND EDUCATION~~. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.240 Municipal Licensing

- a) Municipalities which have adopted a licensing ordinance as provided under Section 3-104 of the ~~"Nursing Home Care Reform Act of 1979"~~ and this Part ~~these rules~~ shall adopt this Part ~~these~~ ~~Minimum Standards, Rules and Regulations for Sheltered Care Facilities by reference~~ by complying with Article I, Division 3, of the Illinois Municipal Code (Ill. Rev. Stat. ~~1979~~ 1987, ch. 24, pars. 1-3-1 et seq.).
- b) Municipalities shall issue licenses so that the expiration dates are distributed throughout the calendar year. The month the license expires shall coincide with the date of original licensure of the licensee. During the ~~twenty-four (24)~~ month period following the effective date of the ~~"Nursing Home Care Reform Act of 1979"~~, the municipality may issue renewal licenses for period of less than one ~~(1)~~ year in order to distribute the expiration date of such licenses throughout the calendar year.
- c) The municipality shall notify the Department within ten ~~(10)~~ days from the date of issuance or denial of a license that the municipal license has been issued or denied. If the license is issued the notice will include the facility name, address, the date of issuance and the number of beds by level of care for which the license was issued. If the license is denied the notice will indicate reason for denial and the current status of licensee's (applicant's) application for municipal license.
- d) THE MUNICIPALITY SHALL USE THE SAME LICENSING CLASSIFICATIONS AS THE DEPARTMENT; AND A FACILITY MAY NOT BE LICENSED FOR A DIFFERENT CLASSIFICATION BY THE DEPARTMENT THAN BY THE MUNICIPALITY.

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## Section 330.240 (continued)

## Section 330.260 Issuance of Conditional Licenses

- e) THE DEPARTMENT AND THE MUNICIPALITY SHALL HAVE THE RIGHT AT ANY TIME TO VISIT AND INSPECT THE PREMISES AND PERSONNEL OF ANY FACILITY FOR THE PURPOSE OF DETERMINING WHETHER THE APPLICANT OR LICENSEE IS IN COMPLIANCE WITH THE ~~"NURSING HOME CARE REFORM ACT OF 1979"~~ THESE RULES OR WITH THE LOCAL ORDINANCES WHICH GOVERN THE REGULATION OF THE FACILITY. THE DEPARTMENT MAY SURVEY ANY FORMER FACILITY WHICH ONCE HELD A LICENSE TO INSURE THAT THE FACILITY IS NOT AGAIN OPERATING WITHOUT A LICENSE. MUNICIPALITIES MAY CHARGE A REASONABLE LICENSE OR RENEWAL FEE FOR THE REGULATION OF FACILITIES, WHICH FEES SHALL BE IN ADDITION TO THE FEES PAID TO THE DEPARTMENT.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.250 Ownership Disclosure

- a) AS A CONDITION OF THE ISSUANCE OR RENEWAL OF THE LICENSE OF ANY FACILITY, THE APPLICANT SHALL FILE A STATEMENT OF OWNERSHIP. THE APPLICANT SHALL AGREE TO UPDATE THE INFORMATION REQUIRED IN THE STATEMENT OF OWNERSHIP EVERY SIX ~~(6)~~ MONTHS FROM THE INITIAL DATE OF FILING IF THERE IS ANY CHANGE. ~~(6)~~

- b) A statement of ownership shall include the following:

- 1) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five ~~(5)~~ percent or more in the legal entity designated as the operator/licensee of the facility which is the subject of the application or license; ~~(6)~~
- 2) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five ~~(5)~~ percent or more in the legal entity that owns the building in which the operator/licensee is operating the facility which is the subject of the application or license; and ~~(6)~~
- 3) THE ADDRESS OF ANY FACILITY WHEREVER LOCATED, IN WHICH THE APPLICANT HAS ANY OWNERSHIP INTEREST.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

- a) THE DIRECTOR MAY ISSUE A CONDITIONAL LICENSE TO ANY FACILITY IF THE DIRECTOR FINDS THAT EITHER A TYPE "A" OR TYPE "B" VIOLATION EXISTS IN SUCH FACILITY. THE ISSUANCE OF A CONDITIONAL LICENSE SHALL REVOKE ANY LICENSE HELD BY THE FACILITY.

- b) PRIOR TO THE ISSUANCE OF A CONDITIONAL LICENSE, THE DEPARTMENT SHALL REVIEW AND APPROVE A WRITTEN PLAN OF CORRECTION. THE DEPARTMENT SHALL SPECIFY THE VIOLATIONS WHICH PREVENT FULL LICENSURE AND SHALL ESTABLISH A TIME SCHEDULE FOR CORRECTION OF THE DEFICIENCIES. RETENTION OF THE LICENSE SHALL BE CONDITIONAL UPON THE CORRECTION OF THE DEFICIENCIES IN ACCORDANCE WITH THE PLAN OF CORRECTION. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-312).

- c) WRITTEN NOTICE OF THE DECISION TO ISSUE A CONDITIONAL LICENSE SHALL BE SENT TO THE APPLICANT OF LICENSEE TOGETHER WITH THE SPECIFICATION OF ALL VIOLATIONS OF THIS ACT AND THE RULES PROMULGATED THEREUNDER WHICH PREVENT FULL LICENSURE AND WHICH FORM THE BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A CONDITIONAL LICENSE AND THE REQUIRED PLAN OF CORRECTION. THE NOTICE SHALL INFORM THE APPLICANT OR LICENSEE OF ITS RIGHT TO A FULL HEARING UNDER SECTION 3-315 OF THE ACT.

- ~~d) IF THE FACILITY DESIRES TO HAVE AN INFORMAL CONFERENCE, IT SHALL, WITHIN FOUR (4) WORKING DAYS FROM RECEIPT OF THE NOTICE UNDER THE ACT, SEND A WRITTEN REQUEST FOR AN INFORMAL CONFERENCE TO THE DEPARTMENT. THE DEPARTMENT SHALL, WITHIN FOUR (4) WORKING DAYS, FROM THE RECEIPT OF THE REQUEST, HOLD AN INFORMAL CONFERENCE. FOLLOWING THIS CONFERENCE, THE DEPARTMENT MAY AFFIRM OR OVERRULE ITS PREVIOUS DECISION, OR MODIFY THE TERMS OF THE CONDITIONAL LICENSE AND PLAN OF CORRECTION. THE CONDITIONAL LICENSE MAY BE ISSUED AFTER THE INFORMAL CONFERENCE OF AFTER THE TIME FOR REQUESTING AN INFORMAL CONFERENCE HAS EXPIRED, PRIOR TO ANY FURTHER HEARING.~~

- ~~d) IF THE APPLICANT OF LICENSEE DESIRES TO PROTEST THE BASIS FOR ISSUANCE OF A CONDITIONAL LICENSE, OR THE TERM OF THE LICENSE OR PLAN OF CORRECTION, THE APPLICANT OR LICENSEE SHALL SEND A WRITTEN REQUEST FOR HEARING TO THE DEPARTMENT WITHIN TEN (10) DAYS AFTER RECEIPT BY THE APPLICANT OF LICENSEE OF THE DEPARTMENT'S NOTICE AND DECISION TO ISSUE A CONDITIONAL LICENSE. THE DEPARTMENT SHALL HOLD THE HEARING AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-315).~~

- ~~e) A CONDITIONAL LICENSE SHALL BE ISSUED FOR A PERIOD SPECIFIED BY THE DEPARTMENT, BUT IN NO EVENT FOR MORE THAN ONE (1) YEAR. THE DEPARTMENT SHALL PERIODICALLY INSPECT ANY FACILITY OPERATING UNDER A CONDITIONAL LICENSE. IF THE DEPARTMENT FINDS SUBSTANTIAL FAILURE BY~~



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THE FACILITY TO CORRECT THE VIOLATIONS WHICH PREVENTED FULL LICENSURE AND FORMED THE BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A CONDITIONAL LICENSE IN ACCORDANCE WITH THE REQUIRED PLAN OF CORRECTION, THE CONDITIONAL LICENSE MAY BE REVOKED AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. ~~1985 Supp.~~ 1987, ch. 111 1/2, par. 4153-316).

~~g) IF THE DEPARTMENT DETERMINES THAT A CONDITIONAL LICENSE SHALL EXPIRE WITHOUT RENEWAL OR REPLACEMENT OF THE CONDITIONAL LICENSE BY A REGULAR LICENSE, THE DEPARTMENT SHALL SO NOTIFY THE LICENSEE AT LEAST THIRTY (30) DAYS PRIOR TO EXPIRATION OF THE LICENSE. THE LICENSEE IS ENTITLED TO A HEARING UNDER THE ACT IF REQUESTED PRIOR TO EXPIRATION OF THE LICENSE.~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.270 Monitor and Receivership

a) The Department may place an employee or agent to serve as a monitor in a facility when any of the following conditions exist:

- 1) THE FACILITY IS OPERATING WITHOUT A LICENSE;
- 2) THE DEPARTMENT HAS SUSPENDED, REVOKED OR REFUSED TO RENEW THE EXISTING LICENSE OF THE FACILITY;
- 3) THE FACILITY IS CLOSING OR HAS INFORMED THE DEPARTMENT THAT IT INTENDS TO CLOSE AND ADEQUATE ARRANGEMENTS FOR RELOCATION OF RESIDENTS HAVE NOT BEEN MADE AT LEAST 30 DAYS PRIOR TO CLOSURE; OR
- 4) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS, WHETHER OR NOT IT HAS INITIATED REVOCATION OR NONRENEWAL PROCEDURES, IF BECAUSE OF THE UNWILLINGNESS OF INABILITY OF THE LICENSEE TO REMEDY THE EMERGENCY THE DEPARTMENT BELIEVES A MONITOR IS NECESSARY. (Ill. Rev. Stat. ~~1993~~ 1987, ch. 111 1/2, par. 4153-501)

b) The monitor shall meet the following minimum requirements:

- 1) be in good physical health as evidenced by a physical examination by a physician within the last year;
- 2) have an understanding of the needs of nursing home residents as

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## Section 330.270(b)(2) (continued)

evidenced by one year of experience in working with the elderly in programs such as patient care, social work or advocacy;

- 3) have an understanding of the ~~Nursing Home Care Reform Act (hereinafter, the Act)~~ and this Part ~~the rules and regulations promulgated to enforce the Act~~ which are the subject of the monitor's duties as evidenced in a personal interview of the candidate;
  - 4) not be related to the owners of the involved facility through blood, marriage or common ownership of real or personal property except ownership of stock that is traded on a stock exchange;
  - 5) successfully completed a baccalaureate degree; ~~and/or~~ and
  - 6) two years full-time work experience in the long-term care industry of the State of Illinois.
- c) The monitor shall be under the supervision of the ~~Division of Enforcement, Office of Health Regulation, Illinois~~ Department of ~~Public Health~~; shall perform the duties of a monitor delineated in Section 3-502 of the Act; and accomplish the following actions:
- 1) visit the facility at least five ~~(5)~~ days per week or as directed by the Department;
  - 2) review all records pertinent to the condition for such monitor's placement under subsection (a) of this Section ~~above~~;
  - 3) provide to the Department ~~Division of Enforcement, Office of Health Regulation~~, a weekly written report and a daily oral report detailing the observed conditions of the facility; and
  - 4) shall be available as a witness for hearings involving the condition for placement as monitor.
- d) All communications, including but not limited to data, memoranda, correspondence, records and reports shall be transmitted to and become the property of the Department, plus, findings and results of the monitor's work done under these rules and regulations shall be subject to disclosure only in accordance with the provisions of the Freedom of Information Act, subject to the confidentiality requirements of the ~~Nursing Home Care Reform Act of 1979~~.
- e) The assignment as monitor may be terminated at any time by the

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## Section 330.270(e) (continued)

~~Department Division of Enforcement, Office of Health Regulation.~~

- f) Through consultation with the long-term care industry associations, professional organizations, consumer groups and health-care management corporations, the Department shall maintain a list of receivers. Preference on the list shall be given to individuals possessing a valid Illinois Nursing Home Administrator's License, experience in financial and operations management of a long-term care facility and individuals with access to consultative experts with the aforementioned experience. To be placed on the list, individuals must meet the following minimum requirements:

- 1) be in good physical and mental health as evidenced by a physical examination by a physician within the last year;
- 2) have an understanding of the needs of nursing home residents and the delivery of the highest possible quality of care as evidenced by one year of experience in working with the elderly in programs such as patient care, social work, or advocacy;
- 3) have an understanding and working knowledge of the Act and this Part ~~rules and regulations promulgated thereunder~~ as evidenced by a personal interview of the candidate;
- 4) have successfully completed a baccalaureate degree; and
- 5) have two years full-time working experience in the Illinois long-term care industry.

- g) Upon appointment of a receiver for a facility by a court, the Department shall inform the individual of all legal proceedings to date which concern the facility.

- h) The receiver may request that the Director of the Department authorize expenditures from monies appropriated, pursuant to Section 3-511 of the Act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.

- i) In the case of Department ordered patient transfers, the receiver may:

- 1) assist in providing for the orderly transfer of all residents in the facility to other suitable facilities, or make other provisions for their continued health;
- 2) assist in providing for transportation of the resident, his

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## Section 330.270(i)(2) (continued)

medical records and his belongings if he is transferred or discharged; assist in locating alternative placement; assist in preparing the resident for transfer; and permit the resident's legal guardian to participate in the selection of the resident's new location;

- 3) unless emergency transfer is necessary, explain alternative placements to the resident and provide orientation to the place chosen by the resident or resident's guardian.
- j) IN ANY ACTION OR SPECIAL PROCEEDING BROUGHT AGAINST A RECEIVER IN THE RECEIVER'S OFFICIAL CAPACITY FOR ACTS COMMITTED WHILE CARRYING OUT THE AFORESAID POWERS AND DUTIES, THE RECEIVER SHALL BE CONSIDERED A PUBLIC EMPLOYEE UNDER THE "LOCAL GOVERNMENTAL AND GOVERNMENTAL EMPLOYEES TORT IMMUNITY ACT (Ill. Rev. Stat. ~~1983~~ 1987, ch. 85, par. 1-101 et seq.)." A RECEIVER MAY BE HELD LIABLE IN A PERSONAL CAPACITY ONLY FOR THE RECEIVER'S OWN GROSS NEGLIGENCE, INTENTIONAL ACTS OR BREACH OF FIDUCIARY DUTY. (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 4153-513).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.272 Determination to Issue a Notice of Violation or Administrative Warning

- a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director or his designee shall review the findings contained in the report to determine WHETHER THE REPORT'S FINDINGS CONSTITUTE A VIOLATION OR VIOLATIONS OF WHICH THE FACILITY MUST BE GIVEN NOTICE and which THREATEN THE HEALTH, SAFETY, OR WELFARE OF A RESIDENT OR RESIDENTS. All information, evidence, and observations made during an inspection, survey or evaluation shall be considered findings or deficiencies.

- b) In making this determination, the Director or his designee shall consider any COMMENTS AND DOCUMENTATION PROVIDED BY THE FACILITY within ~~10~~ ten days of receipt of the report in accordance with Section 330.200(c).

- c) In determining whether the findings warrant the issuance of a notice of violation, the Director or his designee shall base his determination on the following factors:

- 1) THE SEVERITY OF THE FINDING. The Director or his designee will



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consider whether the finding constitutes a merely technical non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the standard.

- 2) THE DANGER POSED TO RESIDENT HEALTH AND SAFETY. The Director or his designee will consider whether the finding could pose any direct ~~or indirect~~ harm to the residents.
- 3) THE DILIGENCE AND EFFORTS TO CORRECT DEFICIENCIES AND CORRECTION OF REPORTED DEFICIENCIES BY THE FACILITY. Consideration will be given to any evidence provided by the facility in its comments and documentation that steps have been taken to reduce noted findings and to insure a reduction of deficiencies.
- 4) THE FREQUENCY AND DURATION OF SIMILAR FINDINGS IN PREVIOUS REPORTS AND THE FACILITY'S GENERAL INSPECTION HISTORY. The director or his designee will consider whether the same finding or a similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-212(c))

- d) If the Director or his designee determines that the report's findings constitute a violation or violations which do not directly threaten the health, safety, or welfare of a resident or residents, the DEPARTMENT SHALL ISSUE AN ADMINISTRATIVE WARNING as provided in Section 330.377. (Ill. Rev. Stat. 1987, ch. 111 1/2 par. 4153.303.2(a))

~~d)~~ e) VIOLATIONS SHALL BE DETERMINED UNDER THIS SECTION NO LATER THAN 60 DAYS AFTER COMPLETION OF EACH INSPECTION, SURVEY AND EVALUATION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-212(c))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.274 Determination of the Level of a Violation

- a) After determining that issuance of a notice of violation is warranted and prior to issuance of the notice, the Director or his designee will review the findings which are the basis of the violation and the comments and documentation provided by the facility to determine the level of the violation. Each violation shall be determined to be

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either a level A ~~or~~ or level B ~~or level C~~ violation based on the criteria outlined in this Section.

- b) The following definitions of levels of violations shall be used in determining the level of each violation:
  - 1) A "level A violation" or "type A violation" is A VIOLATION OF THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY PRESENTING A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS MENTAL OR PHYSICAL HARM WILL RESULT THEREFROM. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4151-129)
  - 2) A "level B violation" or "type B violation" is A VIOLATION OF THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY DIRECTLY THREATENING TO THE HEALTH, SAFETY OR WELFARE OF A RESIDENT. (Ill. Rev. Stat., ~~1985~~ 1987, ch. 111 1/2, par. 4151-130)
  - ~~3) A "level C violation" or "type C violation" is A VIOLATION OF THE ACT OR THESE RULES WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY WHICH INDIRECTLY THREATENS THE HEALTH, SAFETY OR WELFARE OF A RESIDENT. (Ill. Rev. Stat. 1985 ch. 111 1/2, par. 4151-131)~~
- c) In determining the level of a violation, the Director or his designee shall consider the following criteria:
  - 1) The specific requirements of this Part which have been violated and the designated level of violation for those provisions.
    - A) The designated level of violation is indicated by the letter or letters in parentheses following specific provisions. The presence of more than one letter following a specific provision indicates that the provision may be applicable to different levels of violation. The absence of any letter following a specific provision indicates that no designated level of violation applicable to that provision has been determined.
    - B) The designated level of violation will be considered in conjunction with the other criteria contained in subsections (c)(2) and (c)(3) of this Section which may increase or decrease the level of violation cited for a specific violation, except that no violation ~~of a~~

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~~requirement designated as level C~~ will be cited as a level B violation unless there is a direct threat to the health, safety or welfare of a resident, or as a level A violation unless there is a substantial probability of the death of a resident or serious mental or physical harm to a resident.

2) The degree of danger to the resident or residents which is posed by the condition or occurrence in the facility. The following factors will be considered in assessing the degree of danger:

- A) Whether the resident or residents of the facility are able to recognize conditions or occurrences which may be harmful and are able to take measures for self-preservation and self-protection. The extent of nursing care required by the residents as indicated by review of patient needs will, be considered in relation to this determination.
- B) Whether the resident or residents have access to the area of the facility in which the condition or occurrence exists and the extent of such access. A facility's use of barriers, warning notices, instructions to staff and other means of restricting resident access to hazardous areas will be considered.

C) Whether the condition or occurrence was the result of inherently hazardous activities or negligence by the facility.

D) Whether the resident or residents of the facility were notified of the condition or occurrence and the promptness of such notice. Failure of the facility to notify residents of potentially harmful conditions or occurrences will be considered. The adequacy of the method of such notification and the extent to which such notification reduced the potential danger to the residents will also be considered.

3) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility. In assessing the directness and imminence of the danger, the following factors will be considered:

- A) Whether actual harm, including death, physical injury or illness, mental injury or illness, distress, or pain, to a

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## Section 330.274(c)(3)(A) (continued)

resident or residents resulted from the condition or occurrence and the extent of such harm.

B) Whether available statistics and records from similar facilities indicate that direct and imminent danger to the resident or residents has resulted from similar conditions or occurrences and the frequency of such danger.

C) Whether professional opinions and findings indicate that direct and imminent danger to the resident or residents will result from the condition or occurrence.

D) Whether the condition or occurrence was limited to a specific area of the facility or was widespread throughout the facility. Efforts taken by the facility to limit or reduce the scope of the area affected by the condition or occurrence will be considered.

E) Whether the physical, mental, or emotional state of the resident or residents, who are subject to the danger, would facilitate or hinder harm actually resulting from the condition or occurrence.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.276 Notice of Violation

a) EACH NOTICE OF VIOLATION SHALL BE IN WRITING AND SHALL CONTAIN THE FOLLOWING INFORMATION:

1) A description of THE NATURE OF THE VIOLATION.

2) A citation of the specific STATUTORY PROVISION OR RULE which the Department believes has been violated. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-301)

3) A statement of the level of the violation as determined pursuant to Section 330.274.

4) One of the following requirements for corrective action:

- A) For level A violations, a statement that necessary corrective action to ABATE OR ELIMINATE the violation must be taken IMMEDIATELY or within a specific FIXED PERIOD OF



## Section 330.276(a)(4)(A) (continued)

TIME NOT EXCEEDING 15 DAYS. In setting this period, the Department will consider whether harm to residents of the facility is imminent, whether necessary precautions can be taken to protect residents before the corrective action is completed, and whether delay would pose additional risks to the residents.

- B) For Level B violations ~~and level C violations~~, a REQUEST that the facility submit A PLAN OF CORRECTION WITHIN ~~10~~ TEN DAYS OF THE RECEIPT OF THE NOTICE OF VIOLATION pursuant to Section 3-303 of the Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-303) and Section 330.278 of this Part.

- 5) A statement that the Department may take additional action under the Act, including assessment of penalties or licensure action.
- 6) A description of the licensee's right to appeal the notice and its right to a hearing.

- b) Each notice of violation shall be sent to the facility and the licensee by registered mail or served personally at the facility.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.277

## Administrative Warning

- a) Each administrative warning shall be in writing and shall include the following information:

- 1) A description of the nature of the violation.
- 2) A citation of the specific statutory provision or rule which the Department believes has been violated.
- 3) A statement that the FACILITY SHALL BE RESPONSIBLE FOR CORRECTING THE SITUATION, CONDITION, OR PRACTICE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(a))

- b) Each administrative warning shall be sent to the facility and the licensee or served personally at the facility within ten days after the Director or his designee determines that issuance of an administrative warning is warranted under Section 330.272.

## Section 330.277 (continued)

- c) The facility is not required to submit a plan of correction in response to an administrative warning.

- d) If the Department finds, during THE NEXT ON-SITE INSPECTION WHICH OCCURS MORE THAN 90 DAYS AFTER THE ISSUANCE OF THE ADMINISTRATIVE WARNING, that the facility has not CORRECTED THE SITUATION, CONDITION, OR PRACTICE WHICH RESULTED IN THE ISSUANCE OF THE ADMINISTRATIVE WARNING, the Department shall notify the facility of the finding. The facility must then SUBMIT A WRITTEN PLAN OF CORRECTION as provided in Section 330.278. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-303.2(b))

(Source: Added at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.278 Plans of Correction

- a) A FACILITY SHALL HAVE ~~10~~ TEN DAYS AFTER RECEIPT OF A NOTICE OF VIOLATION FOR A LEVEL B ~~OR LEVEL C~~ VIOLATION TO PREPARE AND SUBMIT A PLAN OF CORRECTION to the Department.

- b) Within the ~~10~~ ten-day period, a facility may request additional time for submission of the plan of correction. The Department will extend the period for submission of the plan of correction for an additional 30 days, when it finds that corrective action by a facility to abate or eliminate the violation will require SUBSTANTIAL CAPITAL IMPROVEMENT. The Department will consider the extent and complexity of necessary physical plant repairs and improvements and any impact on the health, safety, or welfare of the residents of the facility in determining whether to grant a requested extension.

- c) Each plan of correction shall be based on an assessment by the facility of the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each plan of correction shall include:

- 1) A description of the specific corrective action the facility is taking, or plans to take, to abate, eliminate, or correct the violation cited in the notice.
- 2) A description of the steps which will be taken to avoid future occurrences of the same and similar violations.
- 3) A specific date by which the corrective action will be completed.

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## Section 330.278 (continued)

- d) Submission of a plan of correction shall not be considered an admission by the facility that the violation has occurred.
- e) The Department shall review each plan of correction to insure that it provides for the abatement, elimination, or correction of the violation. The Department shall reject a submitted plan only if it finds any of the following deficiencies:
  - 1) The plan does not appear to address the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences.
  - 2) The plan is not specific enough to indicate the actual actions the facility will be taking to abate, eliminate, or correct the violation.
  - 3) The plan does not provide for measures which will abate or eliminate, or correct the violation.
  - 4) The plan does not provide steps which will avoid future occurrences of the same and similar violations.
  - 5) The plan does not provide for timely completion of the violation, corrective action, considering the seriousness of the violation, any possible harm to the residents, and the extent and complexity of the corrective action.
- f) When the Department rejects a submitted plan of correction, it shall notify the facility. The notice of rejection shall be in writing and shall specify THE REASON FOR THE REJECTION. THE FACILITY SHALL HAVE ~~10~~ TEN DAYS AFTER RECEIPT OF THE NOTICE OF REJECTION TO SUBMIT A MODIFIED PLAN.
- g) If a facility fails to submit a plan or modified plan meeting the criteria in subsection (c) within the prescribed time periods in subsection (a) or subsection (d), AN APPROVED PLAN OF CORRECTION WILL BE IMPOSED BY THE DEPARTMENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-303(b))
- h) The Department shall verify the completion of the corrective action required by the plan of correction within the specified time period during subsequent investigations, surveys and evaluations of the facility.

(Source: Amended at 13 Ill. Reg. . . . , effective . . . . . )

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## Section 330.280 Reports of Correction

- a) In lieu of submission of a plan of correction, a facility may submit a report of correction if the corrective action has been completed. The report of correction must be submitted within the time periods required in Section 330.278 for submission of a plan of correction.
- b) Each report of correction shall be based on an assessment by the facility of the conditions or occurrences which are the basis of the violation and an evaluation of the practices, policies, and procedures which have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each report of correction shall include:
  - 1) A description of the specific corrective action the facility has taken to abate, eliminate, or correct the violation cited in the notice.
  - 2) A description of the steps which have been taken to avoid future occurrences of the same and similar violations.
  - 3) The specific date on which the corrective action was completed.
  - 4) A signed statement by the administrator of the facility that the report of correction is true and accurate, which shall be considered an oath for the purposes of any legal proceedings.
- c) Submission of a report of correction shall not be considered an admission by the facility that the violation has occurred.
- d) The Department shall review and approve or disapprove the report of correction based on the criteria outlined in Section 330.278(d) for review of plans of correction. If a report of correction is disapproved, the facility shall be subject to a plan of correction imposed by the Department as provided in Section 330.278.
- e) The Department shall verify the completion of the corrective action outlined in the report of correction during subsequent investigations, surveys and evaluations of the facility.

(Source: Amended at 13 Ill. Reg. . . . , effective . . . . . )

## Section 330.282 Conditions for Assessment of Penalties

The Department shall consider the assessment of a monetary penalty against a facility under the following conditions:



## Section 330.282 (continued)

- a) When a notice of violation for a level A violation is issued.
- i) The penalty to be assessed for this violation shall be the greater of the following:
    - A) An amount NOT LESS THAN \$5000 as determined by the Director or his designee considering the factors outlined in Section 330.286(a), or
    - B) The total of the following:
      - i) \$5 PER RESIDENT IN THE FACILITY, PLUS
      - ii) \$.20 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE DAY ON WHICH THE NOTICE OF VIOLATION IS RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(1))
  - 2) The facility shall also be issued a conditional license for a period of six months as provided in Section 330.260.
- b) When a facility fails to abate or eliminate a level A violation immediately or within the period set by the Department in the notice of violation pursuant to Section 330.276(a)(4)(A).
- 1) The facility shall be cited for a repeat violation.
  - 2) The penalty to be assessed shall be three times the penalty computed under subsection (a)(1) of this Section.
  - 3) The license of the facility shall be revoked as provided in Section 330.180.
- c) When a notice of violation for a level B violation is issued.
- 1) The penalty to be assessed for this violation shall be the greater of the following:
    - A) An amount NOT LESS THAN \$500 as determined by the Director or his designee considering the factors outlined in Section 330.286(a), or
    - B) The total of the following:

## Section 330.282(c)(1)(B) (continued)

- 1) \$3 PER RESIDENT IN THE FACILITY, PLUS
  - ii) \$.15 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE DAY ON WHICH THE NOTICE OF VIOLATION IS RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(2))
- 2) Upon acceptance of a plan of correction by the Department, assessment of the penalty shall be suspended by the Department. No additional penalty shall be imposed for days during which the plan of correction is in effect.
- d) When a facility fails to correct a level B violation within the time period specified in the plan of correction approved by the Department
- 1) The facility shall be cited for a repeat violation.
  - 2) The penalty to be assessed shall be computed in accordance with subsection (c)(1) of this Section. Days during which the plan of correction was in effect shall be included in the calculation of the penalty.
  - 3) The facility shall also be issued a conditional license for a period of at least six months as provided in Section 330.260.
- e) When a facility fails to implement the corrective action required in the plans of correction for ten or more level C violations within the time period required in the plans of correction approved by the Department and fails to substantially address the issues raised by the violations routinely throughout the facility.
- 1) The facility shall be cited for repeat violations.
  - 2) The penalty to be assessed shall be calculated as the total of the following:
    - A) \$1.50 PER RESIDENT IN THE FACILITY, PLUS
    - B) \$.10 PER RESIDENT FOR EACH DAY OF THE REPEAT VIOLATIONS, COMMENCING ON THE DAY ON WHICH THE NOTICES OF THE REPEAT VIOLATIONS ARE RECEIVED BY THE FACILITY AND ENDING ON THE DAY THE NECESSARY CORRECTIVE ACTION IS COMPLETED. (11. Rev. Stat. 1985, ch. 111 1/2, par. 4153-305(3))

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## Section 330.282 (continued)

e) ~~1)~~ WHEN A NOTICE OF VIOLATION IS ISSUED FOR A VIOLATION OF ARTICLE II OF THE ACT (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-101 through par. 4152-212) WITH REGARD TO THE RIGHTS OF A PARTICULAR RESIDENT OF THE FACILITY, THE DEPARTMENT SHALL ORDER THE FACILITY TO REIMBURSE THE RESIDENTS FOR ANY INJURIES INCURRED OR IF THE AMOUNT OF THE INJURIES IS LESS THAN \$100. THE DEPARTMENT SHALL ORDER THE FACILITY TO PAY \$100 TO THE RESIDENT. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(6 ~~7~~))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.284 Calculation of Penalties

a) For the purpose of calculating penalties as provided in Section 330.282, EACH DAY ON WHICH A VIOLATION CONTINUES TO EXIST AFTER THE DAY ON WHICH NOTICE OF THE VIOLATION IS RECEIVED BY THE FACILITY SHALL BE CONSIDERED A SEPARATE VIOLATION. The Department shall not be required to send additional notices of violation to the facility for such continuing violations. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-302)

b) For purposes of calculating penalties as provided in Section 330.282, THE NUMBER OF RESIDENTS IN THE FACILITY AND THE NUMBER OF RESIDENTS ON EACH DAY SHALL BE CALCULATED AS THE AVERAGE NUMBER OF RESIDENTS IN THE FACILITY DURING THE ~~THIRTY~~ 30 DAYS IMMEDIATELY PRECEDING THE DAY ON WHICH THE FINDINGS WERE MADE IN THE FACILITY AND THE CONDITIONS OR OCCURRENCES DETERMINED TO BE A VIOLATION WERE DISCOVERED. The number of residents in the facility on the day on which the findings were made in the facility will be considered to be the same as the average number of residents in the facility during the preceding ~~thirty~~ 30 days, unless evidence is provided by the facility substantiating that the average number of residents for that period was different. Changes in the number of residents in the facility subsequent to the day on which the findings were made shall not be considered in the calculation. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-305(5 ~~6~~))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.286 Determination to Assess Penalties

a) The Director or his designee shall consider the following factors in determining whether or not to assess penalties for violations under

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## Section 330.286(a) (continued)

the conditions outlined in Section 330.282.

- 1) THE SEVERITY OF HARM, INCLUDING DEATH OR SERIOUS PHYSICAL OR MENTAL HARM, WHICH HAS RESULTED TO A RESIDENT AND THE EXTENT TO WHICH RESIDENTS HAVE BEEN SUBJECT TO POTENTIAL SERIOUS HARM. A penalty will be assessed when the Director or his designee finds that death or serious physical or mental harm to a resident has occurred or that the facility has knowingly subjected residents to potential serious harm.
- 2) THE GRAVITY OF THE VIOLATION AND THE EXTENT TO WHICH THE PROVISIONS OF THE ACT OR RULES WERE VIOLATED. The Director or his designee will assess a monetary penalty if he finds that the violation occurred or continued, is widespread throughout the facility or evidences flagrant violation or the Act or these rules.
- 3) THE EXTENT AND SERIOUSNESS OF ANY PREVIOUS VIOLATIONS COMMITTED BY THE FACILITY AND THE EXTENT OF DILIGENCE EXERCISED BY THE FACILITY TO CORRECT SUCH VIOLATIONS. The Director or his designee will assess a penalty when he finds that the facility has been cited for similar violations and has failed to correct such violations as promptly as practicable or has failed to exercise diligence in taking necessary corrective action. The Director or his designee will also consider any evidence that the violations constitute a pattern of deliberate action by the facility. The extent of any change in the ownership and management of the facility will be considered in relation to the seriousness of previous violations.
- 4) ANY POSSIBLE FINANCIAL BENEFIT THE FACILITY COULD GAIN AS A RESULT OF COMMITTING OR CONTINUING THE VIOLATION. Such benefits include, but are not limited to, diversion of costs associated with physical plant repairs, staff salaries, consultant fees, or direct patient care services. (111. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-306)

b) If the Director or his designee determines that a penalty is to be assessed, a written notice of penalty assessment shall be sent to the facility ~~by registered mail~~. Each notice of penalty assessment shall include:

- 1) THE AMOUNT OF THE PENALTY being assessed as provided in Section 330.282.



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## Section 330.286(b) (continued)

- 2) The amount of any reduction or whether the penalty has been waived pursuant to Section 330.288.
- 3) A description of THE VIOLATION, including a reference to the notices of violation and plans of correction which are the basis of the assessment.
- 4) A citation to the provision of THE ACT OR THE RULE which the facility has violated.
- 5) A description of the right of the facility to appeal the assessment and of the RIGHT OF THE FACILITY TO A HEARING.
- 6) For violations which are continuing at the time the notice of assessment, THE AMOUNT OF ADDITIONAL PENALTIES PER DAY which will be assessed. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-307)
- c) Penalties shall be paid by the facility to the Department within the time periods provided in Section 3-310 of the Act. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-310)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.288 Reduction or Waiver of Penalties

- a) Reductions for all types of violations subject to penalties.
  - 1) The Director or his designee shall consider the factors contained in Section 330.286(a) in determining whether to reduce the amount of the penalty to be assessed from the amount calculated pursuant to Section 330.284 and in determining the amount of such reduction.
  - 2) When the Director or his designee finds that correction of a violation required capital improvements or repairs in the physical plant of the facility and the facility has a history of compliance with physical plant requirements, the penalty will be reduced by the amount of the cost of the improvements or repairs. This reduction, however, shall not reduce the penalty for a level A violation to an amount less than \$1000.
- b) Reductions and waivers for level B violations.

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## Section 330.288(b) (continued)

- 1) Penalties resulting from level B violations may be reduced or waived only under one of the following conditions:
  - A) THE FACILITY SUBMITS A REPORT OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, and the report is subsequently verified by the Department.
  - B) THE FACILITY SUBMITS A PLAN OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, the plan is approved by the Department, THE FACILITY SUBMITS A REPORT OF CORRECTION WITHIN ~~FIFTEEN~~ 15 DAYS after submission of the plan or correction, and the report is subsequently verified by the Department.
  - C) THE FACILITY SUBMITS A PLAN OF CORRECTION WITHIN TEN DAYS after the notice of violation is received, THE PLAN PROVIDES FOR CORRECTION WITHIN NOT MORE THAN ~~THIRTY~~ 30 DAYS after submission of the plan of correction, and THE PLAN IS APPROVED BY THE DEPARTMENT.
  - D) Correction of the violation requires substantial capital improvements or repairs in the physical plant of the facility, THE FACILITY SUBMITS A PLAN OR CORRECTION INVOLVING SUBSTANTIAL CAPITAL COSTS, THE PLAN OF CORRECTION PROVIDES COMPLETION OF THE CORRECTIVE ACTION WITHIN ~~NINETY~~ 90 DAYS after submission of the plan, and the plan is approved by the Department. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-308)
- 2) Under these conditions, the Director or his designee shall consider the factors outlined in Section 330.286(a) in determining whether to reduce or waive the penalty and in setting the amount of any reduction.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.290 Quarterly List of Violators

- a) THE DEPARTMENT SHALL PREPARE ON A QUARTERLY BASIS A LIST CONTAINING THE NAMES AND ADDRESSES OF ALL FACILITIES AGAINST WHICH THE DEPARTMENT DURING THE PREVIOUS QUARTER HAS:
  - 1) Issued a NOTICE OF PENALTY ASSESSMENT for a level A violation as provided in Section 300.286 and Section 3-305(1) of the Act

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## Section 330.290(a)(1) (continued)

- 2) Issued a NOTICE OF REVOCATION of the facility's license as provided in Section 300.180 and ~~sent a notice of license revocation under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119). ~~+~~
- 3) Issued a NOTICE REFUSING RENEWAL of the facility's license as provided in Section 300.175 and ~~sent a notice refusing renewal of a license under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119). ~~+~~
- 4) Issued a NOTICE TO SUSPEND the facility's license as provided in ~~sent a notice to suspend a license under~~ Section 3-119 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119). ~~+~~
- 5) ISSUED A CONDITIONAL LICENSE to the facility as provided in Section 300.260 and Section 3-313 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-119) and the violations which were the basis of the issuance of the conditional license HAVE NOT BEEN CORRECTED. ~~Issued a conditional license for violations and penalties described under Sections 3-301 and 3-303.~~
- 6) PLACED A MONITOR IN THE FACILITY as provided in Section 300.270 and Section 3-501 of the Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4153-501) for one of the following reasons: ~~placed a monitor under subsections (a), (b) and (c) of Section 3-501 and under subsection (d) of such Section where license revocation or nonrenewal notices have also been issued.~~
  - A) The facility is operating without a license.
  - B) The Department has revoked or refused to renew the license of the facility.
  - C) The facility is closing or has informed the Department that it intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure.
  - D) The Department determines that an emergency exists and HAS ISSUED A NOTICE OF REVOCATION OR NONRENEWAL against the facility's license.

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## Section 330.290(a) (continued)

- 7) INITIATED AN ACTION TO APPOINT A RECEIVER. ~~+~~
- 8) RECOMMENDED TO THE DIRECTOR OF THE DEPARTMENT OF PUBLIC AID, OR THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE DECERTIFICATION FOR VIOLATIONS IN RELATION TO PATIENT CARE OF A FACILITY PURSUANT TO TITLES XVIIII AND XIX OF THE FEDERAL SOCIAL SECURITY ACT. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4153-304(a)).
- b) IN ADDITION TO THE NAME AND ADDRESS OF THE FACILITY, THE LIST SHALL INCLUDE THE NAME AND ADDRESS OF THE PERSON OR LICENSEE AGAINST WHOM THE ACTION HAS BEEN INITIATED, A SELF-EXPLANATORY SUMMARY OF THE FACTS WHICH WARRANTED THE INITIATION OF EACH ACTION, THE TYPE OF ACTION INITIATED, THE DATE OF THE INITIATION OF THE ACTION, THE AMOUNT OF THE PENALTY SOUGHT TO BE ASSESSED, IF ANY, AND THE FINAL DISPOSITION OF THE ACTION, IF COMPLETED. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4153-304(b)).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.300 Alcoholism Treatment Programs In Long-Term Care Facilities

- a) A long-term care facility that desires to provide an alcoholism treatment program must first receive written approval from ~~both the Department Division of Long-Term Care and the Division of Hospitals and Ambulatory Health Programs.~~ Such approval will be granted only if it can be shown that such program will not interfere in any way with the residents in the other parts of the facility. ~~(C)~~
- b) Any alcoholism treatment program in a long-term care facility must meet the program standards of the rules and regulations for Alcoholism and Substance Abuse Treatment, Intervention and Research Programs ~~for Alcoholism and Intoxication Treatment Programs,~~ as promulgated by the Illinois Department of Alcoholism and Substance Abuse ~~Public Health~~ under the Illinois Alcoholism and Other Drug Dependency Act ~~Alcoholism Treatment Licensing Act~~ (Ill. Rev. Stat. ~~1979-1979~~ 1987, ch. 111 1/2, pars. 1-101 ~~2301~~ et seq.). ~~(C)~~
- c) The alcoholism treatment program must be in a completely separate distinct part of the long-term care facility, and must include all beds in that distinct part. It must be completely separated from the rest of the facility, and have separate entrances. ~~(C)~~



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Section 330.300 (continued)

- d) Beds designated for alcoholism treatment cannot be used for long-term care residents, nor can beds designated for long-term care residents be used for residents undergoing treatment for alcoholism. ~~(C)~~
- e) The alcoholism treatment program staff will not be utilized in performing services in the long-term care area of the facility, nor will long-term care program staff be utilized to provide any services in the alcoholism treatment designated area. ~~(C)~~
- f) There may be joint use of laundry, food service, housekeeping and administrative services, provided written approval is obtained from the Department ~~Division of Long Term Care~~. Such approval will be granted only if it can be shown that such joint usage will not interfere in any way with the residents in other parts of the facility. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 330.310 Department May Survey Facilities Formerly Licensed

THE DEPARTMENT MAY SURVEY ANY FORMER FACILITY WHICH ONCE HELD A LICENSE TO INSURE THAT THE FACILITY IS NOT AGAIN OPERATING WITHOUT A LICENSE.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 330.320 Waivers

- a) UPON APPLICATION BY A FACILITY, THE DIRECTOR MAY GRANT OR RENEW THE WAIVER OF THE FACILITY'S COMPLIANCE WITH A RULE OR STANDARD FOR A PERIOD NOT TO EXCEED THE DURATION OF THE CURRENT LICENSE OR, IN THE CASE OF AN APPLICATION FOR LICENSE RENEWAL, THE DURATION OF THE RENEWAL PERIOD.
- b) THE WAIVER MAY BE CONDITIONED UPON THE FACILITY TAKING ACTION PRESCRIBED BY THE DIRECTOR AS A MEASURE EQUIVALENT TO COMPLIANCE.
- c) IN DETERMINING WHETHER TO GRANT OR RENEW A WAIVER, THE DIRECTOR SHALL CONSIDER:
  - 1) THE DURATION AND BASIS FOR ANY CURRENT WAIVER WITH RESPECT TO THE SAME RULE OR STANDARD;
  - 2) THE CONTINUED VALIDITY OF EXTENDING THE WAIVER ON THE SAME BASIS;

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Section 330.320(c) (continued)

- 3) THE EFFECT UPON THE HEALTH AND SAFETY OF RESIDENTS;
  - 4) THE QUALITY OF RESIDENT CARE (i.e., whether the waiver would reduce the overall quality of the resident care below that required by the Act or rules of this Part);
  - 5) THE FACILITY'S HISTORY OF COMPLIANCE WITH THE RULES AND STANDARDS OF THIS ACT (i.e., the existence of a consistent pattern of violation of the Act or the rules of this Part); and
  - 6) THE FACILITY'S ATTEMPTS TO COMPLY WITH THE PARTICULAR RULE OR STANDARD IN QUESTION.
- d) THE DEPARTMENT SHALL RENEW WAIVERS RELATING TO PHYSICAL PLANT STANDARDS ISSUED PURSUANT TO THIS SECTION AT THE TIME OF THE INDICATED REVIEWS, UNLESS IT CAN SHOW WHY SUCH WAIVERS SHOULD NOT BE EXTENDED FOR THE FOLLOWING REASONS:

- 1) THE CONDITION OF THE PHYSICAL PLANT HAS DETERIORATED OR ITS USE SUBSTANTIALLY CHANGED SO THAT THE BASIS UPON WHICH THE WAIVER WAS ISSUED IS MATERIALLY DIFFERENT; OR
- 2) THE FACILITY IS RENOVATED OR SUBSTANTIALLY REMODELED IN SUCH A WAY AS TO PERMIT COMPLIANCE WITH THE APPLICABLE RULES AND STANDARDS WITHOUT SUBSTANTIAL INCREASE IN COST. (Ill. Rev. Stat. ~~1986 Supp.~~ 1987, ch. 111 1/2, par. 4153-303.1).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 330.330 Definitions

~~a) Each definition is considered to be a separate rule, but they are not given individual numbers because they are listed alphabetically, and numbers would have to be changed each time a new definition was added or deleted.~~

~~b)~~

The terms defined in this Section ~~below~~ are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

ABUSE - ANY PHYSICAL OR MENTAL INJURY OR SEXUAL ASSAULT INFLICTED ON A RESIDENT, OTHER THAN BY ACCIDENTAL MEANS IN A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-103)

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Section 330.330 (continued)

ACCESS - THE RIGHT TO:

ENTER ANY FACILITY;

COMMUNICATE PRIVATELY AND WITHOUT RESTRICTION WITH ANY RESIDENT WHO CONSENTS TO THE COMMUNICATION;

SEEK CONSENT TO COMMUNICATE PRIVATELY AND WITHOUT RESTRICTION WITH ANY RESIDENT;

INSPECT THE CLINICAL AND OTHER RECORDS OF A RESIDENT WITH THE EXPRESS WRITTEN CONSENT OF THE RESIDENT;

OBSERVE ALL AREAS OF THE FACILITY EXCEPT THE LIVING AREA OF ANY RESIDENT WHO PROTESTS THE OBSERVATION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-104)

~~Act, The~~ - as used in this Part ~~these standards~~, the "Nursing Home Care ~~Reform~~ Act" (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.) ~~of 1979, as amended~~.

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior - the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Addition - any construction attached to the original building which increases the area or cubic content of the building.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed

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Section 330.330 (continued)

services, and remove barriers to meeting the individual's needs.

AFFILIATE MEANS:

WITH RESPECT TO A PARTNERSHIP, EACH PARTNER THEREOF.

WITH RESPECT TO A CORPORATION, EACH OFFICER, DIRECTOR AND STOCKHOLDER THEREOF.

WITH RESPECT TO A NATURAL PERSON: ANY PERSON RELATED IN THE FIRST DEGREE OF KINSHIP TO THAT PERSON; EACH PARTNERSHIP AND EACH PARTNER THEREOF OF WHICH THAT PERSON OR ANY AFFILIATE OF THAT PERSON IS A PARTNER; AND EACH CORPORATION IN WHICH THAT PERSON OR ANY AFFILIATE OF THAT PERSON IS AN OFFICER, DIRECTOR OF STOCKHOLDER. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-106)

Aide or Orderly - any person providing direct personal care, training ~~and/or~~ or habilitation services to residents.

Alteration - any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident - a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

APPLICANT - ANY PERSON MAKING APPLICATION FOR A LICENSE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-107)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, psychosocial ~~etc.~~ and aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.



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Autism - A syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; Mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel - all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement - when used in these regulations means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification - treatment to be used to establish or change behavior patterns.

Cerebral Palsy - a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX - the issuance of a document by the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - a charge nurse is a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Community Alternatives - service programs in the community provided as an alternative to institutionalization.

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Community Living Facility - see Facility, Community Living.

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's ~~his~~ life.

Contract - a binding agreement between a resident or the resident's ~~his~~ guardian (or, if the resident is a minor, the resident's ~~his~~ parent) and the facility or its agent.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse. Examples of physical abuse are restraining a resident, striking, slapping, hitting, or withholding food as punishment. Examples of mental abuse are swearing, threatening and seclusion.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Dental Practice Act (Ill. Rev. Stat. ~~1983-1987~~, ch. 111, par. ~~2202-2301~~ et seq.).

Department - as used in these standards means the Illinois Department of Public Health.

Developmentally Disabled - those individuals whose disability is attributable to mental retardation, cerebral palsy, epilepsy, autism, or other pathological conditions which generally originate before such individuals attain age ~~eighteen~~ ~~18~~, and which continue, or can be expected to continue, indefinitely, and which constitute a substantial functioning handicap to such individuals.

Developmental Disability - a severe, chronic disability of a person which:

Is attributable to a mental or physical impairment or combination of mental and physical impairments;

Is manifest before age ~~twenty-two~~ ~~(22)~~;

Is likely to continue indefinitely;

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results in substantial functional limitations in three ~~(3)~~ or more of the following areas of major life activities:

- self-care;
- receptive and expressive language;
- learning;
- mobility;
- self-direction;
- capacity for independent living; and
- economic self-sufficiency; and

reflects the persons' needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and individually planned and coordinated.

Dietetic Service Supervisor - a person who:

- is a qualified dietitian; or is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association;
- or is a graduate of a Department-approved course that provides ~~ninety (90)~~ or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or
- has training and experience in food service supervision and management in a military service equivalent in content to the program in paragraph (2) or (3) of this definition.

Dietitian - a person who:

- is eligible for registration by the American Dietetic Association; or has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one ~~(1)~~ year of supervisory experience in the dietetic service of a health care institution, and participates annually

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in continuing dietetic education.

Direct Supervision - means that work is performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

DIRECTOR - THE DIRECTOR OF PUBLIC HEALTH OR HIS DESIGNEE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-110)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

DISCHARGE - THE FULL RELEASE OF ANY RESIDENT FROM A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-111)

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility.

Epilepsy - a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Equivalent of a Graduate Licensed Practical Nurse - a licensed practical nurse, licensed by waiver who successfully passes the proficiency examination approved by the U.S. Department of Health and Human Services shall be considered the equivalent of a licensed practical nurse who is a graduate of an approved school of practical nursing for the purposes of these standards.

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any



## Section 330.330 (continued)

Other agency or the State of Illinois, prior to March 1, 1969. Any long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Community Living - a place of residence as limited in these standards for between five ~~days~~ and ~~eighty~~ ~~---90---~~ ambulatory adults who are mildly or moderately mentally retarded with a potential for being absorbed into the mainstream of community life.

Facility, Intermediate Care - a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled - when used in these standards is a facility of three ~~(3)~~ or more persons, or distinct part thereof, serving residents of which more than ~~fifty~~ ~~---50---~~ percent are developmentally disabled. Facilities with any number less than ~~fifty~~ ~~---50---~~ percent of developmentally disabled residents are determined by the Department with consultation from the Division of Developmental Disabilities, Illinois Department of Mental Health and Developmental Disabilities to need organized social support and training programs, must comply with the program requirements in these minimum Standards.

FACILITY OR LONG-TERM CARE FACILITY - A PRIVATE HOME, INSTITUTION, NURSING HOME, OR OTHER PLACE OPERATED FOR PROFIT OR NOT, OR A COUNTY HOME FOR THE INFIRM AND CHRONICALLY ILL OPERATED PURSUANT TO "THE COUNTY HOME ACT" (11 Rev. Stat. ~~1983, ch. 53, sec. 41 et seq.~~ 1987, ch. 34, par. 5361 et seq.), AS NOW OR HEREFTER AMENDED, OR BY A COUNTY PURSUANT TO "AN ACT IN RELATION TO HOMES FOR THE AGED", APPROVED JULY 21, 1959 (11 Rev. Stat. ~~1983, ch. 34, par. 2561 et seq.~~ AS NOW OR HEREFTER AMENDED, OR ANY OTHER INSTITUTION OPERATED BY A MUNICIPAL SUBDIVISION OF THE STATE OF ILLINOIS WHICH PROVIDES, THROUGH ITS OWNERSHIP OR MANAGEMENT, PERSONAL CARE, SHELTERED CARE OR NURSING FOR THREE ~~(3)~~ OR MORE PERSONS, NOT RELATED TO THE APPLICANT OR OWNER BY BLOOD OR MARRIAGE. IT INCLUDES SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES AS THOSE TERMS ARE DEFINED IN TITLE XVIII AND TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT (42 U.S.C. 1395 et seq. and 1936 et seq.). A "FACILITY" MAY COMPREHEND MORE THAN ONE BUILDING AS LONG AS

## Section 330.330 (continued)

THE BUILDINGS ARE ON THE SAME TRACT, OR ADJACENT TRACTS OF LAND. HOWEVER, THERE SHALL BE NO MORE THAN ONE "FACILITY" IN ANY ONE BUILDING. "FACILITY" DOES NOT INCLUDE THE FOLLOWING:

A HOME, INSTITUTION, OR OTHER PLACE OPERATED BY THE FEDERAL GOVERNMENT OR AGENCY THEREOF, OR BY THE STATE OF ILLINOIS;

A HOSPITAL, SANITARIUM, OR OTHER INSTITUTION WHOSE PRINCIPAL ACTIVITY OR BUSINESS IS THE DIAGNOSIS, CARE, AND TREATMENT OF HUMAN ILLNESS THROUGH THE MAINTENANCE AND OPERATION AS ORGANIZED FACILITIES THEREFOR, WHICH IS REQUIRED TO BE LICENSED UNDER THE "HOSPITAL LICENSING ACT" (11 Rev. Stat. ~~1983~~ 1987, ch. 111 1/2, par. 142 et seq.) AS NOW OR HEREAFTER AMENDED; OR

ANY "FACILITY FOR CHILD CARE" AS DEFINED IN THE "CHILD CARE ACT OF 1969" (11 Rev. Stat. ~~1983~~ 1987, ch. 23, par. 2211 et seq.) AS NOW OR HEREAFTER AMENDED. (11 Rev. Stat. 1987, ch. 111 1/2, par. 4151-113)

Facility, Skilled Nursing - when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility - sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two ~~(2)~~ month period of time.

Full-time - means on duty a minimum of ~~thirty six~~ ~~(---36---~~ hours, four ~~(4)~~ days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

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**GUARDIAN - A PERSON APPOINTED AS A GUARDIAN OF THE PERSON OR GUARDIAN OF THE ESTATE, OR BOTH, OF A RESIDENT UNDER THE "PROBATE ACT OF 1975"** (Ill. Rev. Stat. ~~1983~~ 1987, ch. 110 1/2, par. 1-1 et seq.) AS NOW OR HEREFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-114)

Habilitation - an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Services Supervisor - (Director of Nursing Service) the full-time Registered Nurse, or Licensed Practical Nurse, who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged - any facility which is operated: by a not for profit corporation incorporated under, or qualified as a foreign corporation under, the "General Not For Profit Corporation Act" approved July 17, 1943, as heretofore or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 32, par. ~~163a~~ 101.01 et seq.); or, by a county pursuant to "An Act in relation to homes for the aged" approved July 21, 1959, as heretofore or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 34, par. 3561 et seq.); or, pursuant to a trust or endowment established for nonprofit, charitable purposes, and which provides maintenance, personal care, nursing or sheltered care to three ~~43~~ or more residents, ~~ninety~~ 90 percent of whom are ~~sixty~~ 60 or more years of age.

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

House Manager - a qualified person on duty ~~forty~~ 40 hours a week managing the Community Living Facility and responsible for its operation and its inhabitants.

Individual Educational Program (IEP) - a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) - a total plan of care that is

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developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Institutional Occupancy - when used in these regulations means Health Care Facilities, Group (a), as defined in Chapter 10, paragraph 10-0001 of the Life Safety Code, National Fire Protection Association (1967 Edition).

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for The Developmentally Disabled (ICF/DD's) at least one member of the team shall be a Qualified Mental Retardation Professional.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the "Nursing Home Administrators Licensing Act", as now or hereafter amended (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~3601 et seq~~ 3651 et seq.).

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

LICENSEE - THE PERSON OR ENTITY LICENSED TO OPERATE THE FACILITY AS PROVIDED UNDER THE ACT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-115)

Life-care contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's ~~his~~ life.

MAINTENANCE - FOOD, SHELTER, AND LAUNDRY SERVICES. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-116)

Maladaptive Behavior - impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner - a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of



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medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation - subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory - unable to walk independently or without assistance, but able to move from place to place with the use of devices such as walkers, crutches, wheelchairs, or wheeled platforms ~~and so forth~~.

Mobile Resident - any resident who is able to move about either independently or with the aid of assistive devices such as walkers, crutches, wheelchairs, or wheeled platforms ~~and so forth~~.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the state regulations, and who reports periodically to the Department on the operations of the facility.

NEGLECT - A FAILURE IN A FACILITY TO PROVIDE ADEQUATE MEDICAL OR PERSONAL CARE OR MAINTENANCE, WHICH FAILURE RESULTS IN PHYSICAL OR MENTAL INJURY TO A RESIDENT OR IN THE DETERIORATION OF A RESIDENT'S PHYSICAL OR MENTAL CONDITION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-117)

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization - the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them

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patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

NURSE - A REGISTERED NURSE OR A LICENSED PRACTICAL NURSE AS DEFINED IN "THE ILLINOIS NURSING ACT OF 1987" (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. ~~3401~~ 3501 et seq.) AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-118)

Nursing Assistant - Any person who provides nursing care ~~and/or~~ or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation ~~Registration and Education~~ to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit - a physically identifiable distinct part of a facility consisting of all the beds within the distinct part, but having no more than ~~seventy-five~~ 75 beds, none of which are more than ~~one hundred twenty~~ 120 feet from the nurse's station.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered with the Department of Professional Regulation ~~Registration and Education~~ as an occupational therapist under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. 3701 et seq.).

Occupational Therapy Assistant - a person who is registered with the Department of Professional Regulation ~~Registration and Education~~ as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1983~~ 1987, ch. 111, par. 3701 et seq.).

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Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Oversight - general watchfulness and appropriate action to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

OWNER - THE INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER PERSON WHO OWNS A FACILITY. IN THE EVENT A FACILITY IS OPERATED BY A PERSON WHO LEASES THE PHYSICAL PLANT, WHICH IS OWNED BY ANOTHER PERSON, "OWNER" MEANS THE PERSON WHO OPERATES THE FACILITY, EXCEPT THAT IF THE PERSON WHO OWNS THE PHYSICAL PLANT IS AN AFFILIATE OF THE PERSON WHO OPERATES THE FACILITY AND HAS SIGNIFICANT CONTROL OVER THE DAY-TO-DAY OPERATIONS OF THE FACILITY, THE PERSON WHO OWNS THE PHYSICAL PLANT SHALL INCUR JOINTLY AND SEVERALLY WITH THE OWNER ALL LIABILITIES IMPOSED ON AN OWNER UNDER THE ACT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-1119)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

~~Person in Need of Mental Treatment - any person who is mentally ill and who, because of his illness, is reasonably expected to inflict serious physical harm upon himself or another in the near future or is unable to provide for his basic physical needs so as to guard himself from serious harm.~~

PERSONAL CARE - ASSISTANCE WITH MEALS, DRESSING, MOVEMENT, BATHING, OR OTHER PERSONAL NEEDS, OR GENERAL SUPERVISION AND OVERSIGHT OF THE PHYSICAL AND MENTAL WELL-BEING OF AN INDIVIDUAL, EXCLUSIVE OF NURSING, WHO BECAUSE OF AGE, PHYSICAL OR MENTAL DISABILITY, EMOTIONAL OR BEHAVIOR DISORDER, OR MENTAL RETARDATION IS INCAPABLE OF MAINTAINING A PRIVATE, INDEPENDENT RESIDENCE, OR WHO IS INCAPABLE OF MANAGING HIS PERSON WHETHER OR NOT A GUARDIAN HAS BEEN APPOINTED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-120)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act (Ill. Rev. Stat. 1983, ch. 111, par. 4002 et seq. 1987, ch. 111, par. 4121.).

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Physical Therapy Assistant - a person who has graduated from a two ~~(2)~~ year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered with the Department of Professional Regulation ~~Registration and Education~~ as a Physical Therapist under the Illinois Physical Therapy License Act (Ill. Rev. Stat. 1983, ch. 111, par. 4201 et seq. 1987, ch. 111, par. 4251 et seq.).

Physician - any person licensed by the State of Illinois to practice medicine in all its branches as provided in the "Medical Practice Act" (Ill. Rev. Stat. 1983, ch. 111, par. 4401 et seq. 1987, ch. 111, par. 4400-1 et seq.).

Probationary License - an initial license issued for a period of ~~one hundred twenty (120)~~ days during which time the Department will determine the qualifications of the applicant.

Program Coordinator - a qualified person directly responsible for the overall program, operation and management of a Community Living Facility.

Psychiatrist - a physician who has had at least three ~~(3)~~ years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is registered with the ~~Illinois~~ Department of Professional Regulation ~~Registration and Education~~ to practice clinical psychology.

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications ~~is~~:

Be a physician licensed by the Department of Professional Regulation to practice medicine or osteopathy.

Be a registered nurse licensed by the Department of Professional Regulation.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a



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~~recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).~~

~~an educator with a degree in education from an accredited program and with specialized training or one (1) year of experience in working with the mentally retarded.~~

~~a physical or occupational therapist who has specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a physician licensed by the State of Illinois to practice medicine or osteopathy and with specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a psychologist with at least a Master's Degree from an accredited program and with specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a registered nurse with a valid current Illinois registration to practice as a registered professional nurse who has specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a speech pathologist or audiologist who has specialized training or one (1) year of experience in treating the mentally retarded.~~

~~a registered social worker with a Bachelor's Degree in social work from an accredited program, or a Bachelor's Degree in a field other than social work and at least three (3) years' social work experience under the supervision of a qualified social worker, and with specialized training or with one (1) year of experience in working with the mentally retarded.~~

~~a therapeutic recreation specialist who is a graduate of an accredited program and eligible for Certification by the National Council for Therapeutic Recreation Certification, and who has specialized training or one (1) year experience working with the mentally retarded.~~

~~a rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification and who has~~

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~~specialized training or one (1) year of experience in treating the mentally retarded.~~

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, and certified ~~etc.~~ by the State of Illinois, if required.

REASONABLE VISITING HOURS - ANY TIME BETWEEN THE HOURS OF 10 A.M. AND 8 P.M. DAILY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-121)

Registered Nurse - a person with a valid Illinois registration to practice as a registered professional nurse.

Reputable Moral Character - having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two ~~(2)~~ or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

RESIDENT - PERSON RESIDING IN AND RECEIVING PERSONAL CARE FROM A FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-122)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

RESIDENT'S REPRESENTATIVE - A PERSON OTHER THAN THE OWNER, OR AN AGENT OR EMPLOYEE OF A FACILITY NOT RELATED TO THE RESIDENT, DESIGNATED IN WRITING BY A RESIDENT TO BE HIS REPRESENTATIVE, OR THE RESIDENT'S GUARDIAN, OR THE PARENT OF A MINOR RESIDENT FOR WHOM NO GUARDIAN HAS BEEN APPOINTED. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-123)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they

## Section 330.330 (continued)

are capable (physical, mental, and social).

Restraint of a Resident - the application of a device to limit movements.

Room - a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Safety Device - any equipment or protective device used on a bed, chair, or resident which prevents him from falling or otherwise injuring himself. Examples are: bedside rails, geriatric ~~and/or~~ and adaptive chairs, a wide band ~~(minimum width six (6) inches)~~, vest or sheet applied to prevent falling out of a bed or chair, and hand socks applied to prevent injuring one's self.

Sanitation- the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate

Seclusion - the retention of a resident in a room which he cannot open.

Self Preservation - the ability to follow directions ~~and/or~~ and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

SHELTERED CARE - MAINTENANCE AND PERSONAL CARE. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-124)

Social Worker, Qualified - a person who:

is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act (Ill. Rev. Stat. 1987, ch. 111, par. 6351 et seq.) ~~by the State of Illinois (registered or certified by the Illinois Department of Registration and Education); and~~

is a graduate of a school of social work which has been approved by the Council on Social Work Education (some schools are approved for Bachelor's Degree programs and others for Master's Degree programs); and

## Section 330.330 (continued)

has one ~~(1)~~ year of social work experience in a health care setting.

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

STOCKHOLDER OF A CORPORATION - ANY PERSON WHO, DIRECTLY OR INDIRECTLY, BENEFICIALLY OWNS, HOLDS OR HAS THE POWER TO VOTE, AT LEAST ~~5%~~ FIVE PER CENT OF ANY CLASS OF SECURITIES ISSUED BY THE CORPORATION. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-125)

Story - when used in these regulations means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

STUDENT INTERN - MEANS ANY PERSON WHOSE TOTAL TERM OF EMPLOYMENT IN ANY FACILITY DURING ANY 12-MONTH PERIOD IS EQUAL TO OR LESS THAN 90 CONTINUOUS DAYS, AND WHOSE TERM OF EMPLOYMENT IS EITHER:

AN ACADEMIC CREDIT REQUIREMENT IN A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION, OR

IMMEDIATELY SUCCEEDS A FULL QUARTER, SEMESTER OR TRIMESTER OF ACADEMIC ENROLLMENT IN EITHER A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION, PROVIDED THAT SUCH PERSON IS REGISTERED FOR ANOTHER FULL QUARTER, SEMESTER OR TRIMESTER OF ACADEMIC ENROLLMENT IN EITHER A HIGH SCHOOL OR UNDERGRADUATE INSTITUTION WHICH QUARTER, SEMESTER OR TRIMESTER WILL COMMENCE IMMEDIATELY FOLLOWING THE TERM OF EMPLOYMENT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-125.1)

Substantial - meeting requirements except for variance from the strict and literal performance which result in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 330.280(q)(8), 330.280(k)(2) and 330.280(k)(4).

Substantial failure - the failure to meet requirements other than a variance from the strict and literal performance which result in unimportant omissions or defects given the particular circumstances



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## Section 330.330 (continued)

involved. This definition is limited to the phrase as used in Sections 330.180(b)(1) and 330.260(f).

Sufficient - Same as adequate

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in regulations, the supervisor must be on the premises if the person does not meet assistant level (two (2) year training program) qualifications specified in these definitions.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

TITLE XVIII - TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT AS NOW OR HEREFTER AMENDED (42 U.S.C. Section 1395 et seq.). (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-126)

TITLE XIX - TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT AS NOW OR HEREFTER AMENDED (42 U.S.C. Section 1395 et seq.). (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-127)

TRANSFER - A CHANGE IN STATUS OF A RESIDENT'S LIVING ARRANGEMENTS FROM ONE FACILITY TO ANOTHER FACILITY. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-128)

TYPE A VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY PRESENTING A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS MENTAL OR PHYSICAL HARM TO A RESIDENT WILL RESULT THEREFROM. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-129)

TYPE B VIOLATION - A VIOLATION OF THE ACT OR OF THE RULES PROMULGATED THEREUNDER WHICH CREATES A CONDITION OR OCCURRENCE RELATING TO THE OPERATION AND MAINTENANCE OF A FACILITY DIRECTLY THREATENING TO THE

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## Section 330.330 (continued)

HEALTH, SAFETY OR WELFARE OF A RESIDENT. (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-130)

~~Type C Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility which indirectly threatens the health, safety or welfare of a resident.~~

Unit - an entire physically identifiable residence area, in Community Living Facilities consisting of not less than five (5) nor more than twenty (20) beds, and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective regulations governing the approved levels of service.

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

~~Utensil Sanitizer - an apparatus for sanitizing unwrapped bulky type utensils by using boiling water and steam heat not under pressure.~~

Valid License - a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.340 Incorporated and Referenced Materials

a) The following regulations, standards, and statutes are incorporated or referenced in this Part:

1) Private and professional association standards:

A) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1980), which may be obtained from the American Dietetic Association, 430 North Michigan Avenue, Chicago, Illinois 60611.

B) National Fire Protection Association (NFPA), Standard No. 101: Life Safety Code, Appendix B (1981) and Standard No. 70: National Electric Code (1981), which may be obtained

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## Section 330.340(a)(1)(B) (continued)

from National Fire Protection Association, Battery Park, Quincy, Massachusetts 02269.

- C) American Medical Record Association, Requirements for Medical Record Practitioners (1985), which may be obtained from the American Medical Record Association, John Hancock Center, Suite 1850, 875 North Michigan, Chicago, Illinois 60611.
  - D) Commission on Rehabilitation Counselor Certification, Requirements for Rehabilitation Counselor Certification (1986), which may be obtained from the Commission on Rehabilitation Counselor Certification, 1156 Shore Drive, Room 350, Arlington Heights, Illinois 60004.
  - E) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, VA, 22302.
- 2) Federal statutes and regulations:
- A) Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.)
  - B) Social Security Act (42 U.S.C. 301 et seq.)
  - C) U.S. Public Health Service, Guidelines for the Prevention and Control of Nosocomial Infections, which includes the following guidelines and may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333.
    - i) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (February 1981).
    - ii) Guideline for Hospital Environmental Control (February 1981, Revised July 1982).
    - iii) Guideline for Prevention of Intravascular Infections (October 1981).
    - iv) Guideline for Prevention of Surgical Wound Infections (March 1982).

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## Section 330.340(a)(2)(C) (continued)

- v) Guideline for Prevention of Nosocomial Pneumonia (July 1982).
  - vi) Guideline for Isolation Precautions in Hospitals (July 1983).
  - vii) Guideline for Infection Control in Hospital Personnel (July 1983).
- ~~C) U.S. Public Health Service, Food Service Sanitation Manual (1985).~~
  - ~~D) U.S. Public Health Service, Isolation Techniques for Use in Hospitals (1985).~~
- 3) State of Illinois Statutes:
- A) Alcoholism Treatment Licensing Act (Ill. Rev. Stat. 1985-1987, ch. 111 1/2, par. 2301 et seq.)
  - B) Child Care Act of 1969 (Ill. Rev. Stat. 1985-1987, ch. 23, par. 2211 et seq.)
  - C) AN ACT to create the Court of Claims, to prescribe its powers and duties, and to repeal an Act herein named (Ill. Rev. Stat. 1985-1987, ch. 37, par. 439.1 et seq.)
  - D) The Illinois Dental Practice Act (Ill. Rev. Stat. 1985-1987, ch. 111, par. 2301, et seq.)
  - E) The Election Code (Ill. Rev. Stat. 1985-1987, ch. 46, par. 1-1 et seq.)
  - F) Freedom of Information Act (Ill. Rev. Stat. 1985-1987, ch. 116, par. 201 et seq.)
  - G) General Not for Profit Corporation Act (Ill. Rev. Stat. 1985, ch. 32, par. 163a et seq. 1987, ch. 32, par. 101.01 et seq.)
  - H) Hospital Licensing Act (Ill. Rev. Stat. 1985-1987, ch. 111 1/2, par. 142 et seq.)
  - I) Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1985-1987, ch. 111 1/2, par. 1151 et seq.)



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## Section 330.340(a)(3) (continued)

- J) Illinois Municipal Code (Ill. Rev. Stat. ~~1985~~ 1987, Article I, Division 3, ch. 24, pars. 1-3-1 through 1-3-6)
- K) Life Care Facilities Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4160-1 et seq.)
- L) Local Governmental and Governmental Employees Tort Immunity Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 85, par. 1-101 et seq.)
- M) Medical Practice Act (Ill. Rev. Stat. ~~1985~~ ch. 111, par. ~~4401 et seq.~~ 1987, ch. 111, par. 6400-1 et seq.)
- N) Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 91 1/2, par. 1-100 et seq.)
- O) The Illinois Nursing Act (Ill. Rev. Stat. ~~1985~~ ch. 111, par. ~~3401 et seq.~~ 1987, ch. 111, par. 3501 et seq.)
- P) Nursing Home Administrators Licensing and Disciplinary Act (Ill. Rev. Stat. ~~1985~~ ch. 111, par. ~~3601 et seq.~~ 1987, ch. 111, par. 3651 et seq.)
- Q) Nursing Home Care ~~Reform~~ Act ~~of 1979~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4151-101 et seq.)
- R) Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. 3701 et seq.)
- S) Pharmacy Practice Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. ~~4001 et seq.~~ 4121 et seq.)
- T) Illinois Physical Therapy Act of 1985 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111, par. 4251 et seq.)
- U) Private Sewage Disposal Licensing Act (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 116.301 et seq.)
- V) Probate Act of 1975 (Ill. Rev. Stat. ~~1985~~ 1987, ch. 110 1/2, par. 1-1 et seq.)
- W) The Illinois Public Aid Code (Ill. Rev. Stat. ~~1985~~ 1987, ch. 23, par. 1-1 et seq.)

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## Section 330.340(a) (continued)

- 4) State of Illinois rules:
  - A) Office of the State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)
  - B) Capital Development Board, Illinois Accessibility Code ~~Standards Illustrated~~ (71 Ill. Adm. Code 400)
  - C) Department of Public Health, Alcoholism and Intoxication Treatment Programs (77 Ill. Adm. Code 200)
  - D) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
  - E) Department of Public Health, Food Service Sanitation (77 Ill. Adm. Code 750)
  - F) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890)
  - G) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905)
  - H) Department of Public Health, Drinking Water Systems (77 Ill. Adm. Code 900)
  - I) Department of Public Health, Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
  - J) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)
  - K) Department of Public Aid, Access to Cost Reports (89 Ill. Adm. Code 140.544)
- b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- c) All citations to federal regulations in this Part concern the specified regulation in the 1986 Code of Federal Regulations, unless another date is specified.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## SUBPART B: ADMINISTRATION

## Section 330.510 Administrator

- a) There shall be a responsible and qualified administrator full-time for each licensed facility. The administrator shall be a high school graduate or equivalent and at least ~~eighteen~~ 18 years of age. The licensee will report any change in administrator to the Department, within five ~~(5)~~ (5) days. ~~(C)~~
- b) The administrator shall delegate in writing adequate authority to a person at least ~~eighteen~~ (18) years of age who is capable of acting in an emergency during his absence. Such administrative assignment shall not interfere with resident care and supervision. The administrator or the person designated by him to be in charge of the facility in ~~his/her~~ his absence, shall be deemed by the Department to be the agent of the licensee for the purposes of Section 3-212 of the Nursing Home Care Reform Act, which requires Department staff to provide the licensee with a copy of their report before leaving the facility. ~~(B, C)~~
- c) The licensee and the administrator shall be familiar with this Part. They shall be responsible for seeing that the applicable regulations are met in the facility and that employees are familiar with those regulations according to the level of their responsibilities. ~~(A, B, C)~~
- d) The administrator shall arrange for facility supervisory personnel to annually attend appropriate educational programs on supervision, nutrition, and other pertinent subjects. ~~(C)~~
- e) The administrator shall appoint in writing a member of the facility staff to coordinate the establishment of, and render assistance to, the residents' advisory council. ~~(C)~~
- f) If the facility has an assistant administrator, the Department shall be informed of the name and dates of employment and termination of this person. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: POLICIES

## Section 330.710 Resident Care Policies

- a) The facility shall have written policies and procedures which shall

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## Section 330.710(a) (continued)

- be formulated with the involvement of the administrator. These written policies shall be followed in operating the facility and shall be reviewed at least annually by the Administrator. They shall be in compliance with the Act and all rules promulgated thereunder. ~~(B, C)~~
- b) All the information contained in the policies shall be available for review by Department personnel, residents, staff and the public. ~~(C)~~
- c) These written policies shall include, but are not limited to, the following provisions: ~~(C)~~
- 1) Admission, transfer, and discharge of residents including categories of residents accepted and not accepted, and residents that will be transferred or discharged, etc. ~~(C)~~
  - 2) Resident care services including physician services, emergency services, personal care services, activity services, dietary services, and social services. ~~(B, C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 330.720 Admission and Discharge Policies
- a) 1) No resident determined by professional evaluation to be in need of nursing care shall be admitted to, or kept in, a sheltered care facility. Neither shall any such resident be kept in a distinct part designated and classified for sheltered care. ~~(B, C)~~
- 2) Homes in Chicago licensed as Residential Care (Half-Way) Homes shall only accept and keep persons requiring residential care. Residential care is defined as maintenance and oversight. Oversight is defined as general watchfulness and appropriate action to meet the total needs of residents, exclusive of nursing or personal care, as defined in Chapter 136.1 of the "Municipal Code of the City of Chicago." Oversight shall include, at a minimum, social, recreational, and employment opportunities for residents who, by reason of previous physical or mental disability, or in the opinion of a licensed physician, are in need of residential care. ~~(C)~~



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## Section 330.720 (continued)

- b) Each facility shall have a policy concerning the admission of persons needing prenatal ~~and/or~~ or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to, or kept in the facility, then the facility shall have a policy concerning the provision of adequate ~~and appropriate~~ prenatal and maternity care to such individuals from in-house ~~and/or~~ or outside resources. ~~(c)~~
- c) No resident shall be admitted to, or kept in the facility:
- 1) Who is mentally ill, in need of mental treatment, and at risk because, due to the mental illness, the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future. ~~requires mental treatment as defined in the "Illinois Mental Health Code" (See definition of "Need of Mental Treatment" in Section 330.330.) (B-G)~~
  - 2) Who is destructive of property or himself. (B-G)
  - 3) Who has serious mental or emotional problems based on medical diagnosis. ~~(G)~~
  - d) Children under ~~eighteen~~ ~~(18)~~ years of age may not be cared for in a facility for adults. ~~(G)~~
  - e) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if incompetent, by the resident's guardian. ~~(G)~~
  - f) No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Section 330.1130 (a) through (c). (A, B-G)
  - g) A facility shall not admit more residents than the number authorized by the license issued to it. (B-G)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.730 Contract Between Resident and Facility

- a) 1) BEFORE A PERSON IS ADMITTED TO A FACILITY, OR AT THE EXPIRATION

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## Section 330.730(a)(1) (continued)

OF THE PERIOD OF PREVIOUS CONTRACT, OR WHEN THE SOURCE OF PAYMENT FOR THE RESIDENT'S CARE CHANGES FROM PRIVATE TO PUBLIC FUNDS OR FROM PUBLIC TO PRIVATE FUNDS; A WRITTEN CONTRACT SHALL BE EXECUTED BETWEEN A LICENSEE AND THE FOLLOWING IN ORDER OF PRIORITY:

- A) THE PERSON, OR IF THE PERSON IS A MINOR, HIS PARENT OR GUARDIAN; OR
  - B) THE PERSON'S GUARDIAN, IF ANY, OR AGENT, IF ANY, AS DEFINED IN SECTION 11a-23 OF THE "PROBATE ACT OF 1975", AS NOW OR HEREFTER AMENDED; OR
  - C) A MEMBER OF THE PERSON'S IMMEDIATE FAMILY.
- 2) AN ADULT PERSON SHALL BE PRESUMED TO HAVE THE CAPACITY TO CONTRACT FOR ADMISSION TO A LONG-TERM CARE FACILITY UNLESS HE HAS BEEN ADJUDICATED A "DISABLED PERSON" WITHIN THE MEANING OF SECTION 11a-2 OF THE "PROBATE ACT OF 1975", AS NOW OR HEREFTER AMENDED, OR UNLESS A PETITION FOR SUCH AN ADJUDICATION IS PENDING IN A CIRCUIT COURT OF ILLINOIS.
- 3) IF THERE IS NO GUARDIAN, AGENT OR MEMBER OF THE PERSON'S IMMEDIATE FAMILY AVAILABLE, ABLE OR WILLING TO EXECUTE THE CONTRACT REQUIRED BY SECTION 2-202 OF THE ACT AND A PHYSICIAN DETERMINES THAT A PERSON IS SO DISABLED AS TO BE UNABLE TO CONSENT TO PLACEMENT IN A FACILITY, OR IF A PERSON HAS ALREADY BEEN FOUND TO BE A "DISABLED PERSON", BUT NO ORDER HAS BEEN ENTERED ALLOWING RESIDENTIAL PLACEMENT OF THE PERSON, THAT PERSON MAY BE ADMITTED TO A FACILITY BEFORE THE EXECUTION OF A CONTRACT REQUIRED BY THAT SECTION; PROVIDED THAT A PETITION FOR GUARDIANSHIP OR FOR MODIFICATION OF GUARDIANSHIP IS FILED WITHIN 15 DAYS OF THE PERSON'S ADMISSION TO A FACILITY, AND PROVIDE FURTHER THAT SUCH A CONTRACT IS EXECUTED WITHIN ~~10~~ TEN DAYS OF THE DISPOSITION OF THE PETITION.
- 4) NO ADULT SHALL BE ADMITTED TO A FACILITY IF HE OBJECTS, ORALLY OR IN WRITING, TO SUCH ADMISSION, EXCEPT AS OTHERWISE PROVIDED IN CHAPTERS III AND IV OF THE "MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE", AS AMENDED, OR SECTION 11a-14.1 OF THE "PROBATE ACT OF 1975", AS AMENDED.
- 5) If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of the person,

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## Section 330.730(a)(5) (continued)

within ten ~~(40)~~ days of the effective date of these rules, unless a petition has been filed for guardianship or modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or member of the person's immediate family available, able, or willing to execute the contract at that time, then a contract shall be executed within ten ~~(40)~~ days of the disposition of such petition.

- b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)." ~~(G)~~
- c) A RESIDENT SHALL NOT BE DISCHARGED OR TRANSFERRED AT THE EXPIRATION OF THE TERM OF A CONTRACT, EXCEPT AS PROVIDED IN SECTIONS 3-401 THROUGH 3-423 OF THE ACT. ~~(G)~~
- d) At the time of the resident's admission to the facility, a copy of the contract shall be given to the resident, his guardian, if any, and any other person who executed the contract. ~~(G)~~
- e) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee. ~~(G)~~
- f) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section ~~above~~. If any person other than the principal signatory is to be held individually responsible for payments due under the contract that person shall also sign the contract on a separate signature line labelled "signature of responsible party" or "signature of guarantor." ~~(G)~~
- g) The contract shall include a definition of "responsible party" or "guarantor" which describes in full the liability incurred by any such person. ~~(G)~~
- h) A COPY OF THE CONTRACT FOR A RESIDENT WHO IS SUPPORTED BY NONPUBLIC FUNDS OTHER THAN THE RESIDENT'S OWN FUNDS SHALL BE MADE AVAILABLE TO THE PERSON PROVIDING THE FUNDS FOR THE RESIDENT'S SUPPORT. ~~(G)~~
- i) THE ORIGINAL OR A COPY OF THE CONTRACT SHALL BE MAINTAINED IN THE FACILITY AND BE MADE AVAILABLE UPON REQUEST TO REPRESENTATIVES OF THE DEPARTMENT AND THE DEPARTMENT OF PUBLIC AID. ~~(G)~~
- j) THE CONTRACT SHALL BE WRITTEN IN CLEAR AND UNAMBIGUOUS LANGUAGE AND

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## Section 330.730(j) (continued)

SHALL BE PRINTED IN NOT LESS THAN 12 POINT TYPE. ~~(G)~~

- k) THE CONTRACT SHALL SPECIFY THE TERM OF THE CONTRACT. ~~(G)~~
- l) 1) THE CONTRACT SHALL SPECIFY THE SERVICES TO BE PROVIDED UNDER THE CONTRACT AND THE CHARGES FOR THE SERVICES.
- 2) A paragraph shall itemize the services and products to be provided by the facility and express the cost of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee. ~~(G)~~
- m) THE CONTRACT SHALL SPECIFY THE SERVICES THAT MAY BE PROVIDED TO SUPPLEMENT THE CONTRACT AND THE CHARGES FOR THE SERVICES.
- 1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established ~~above~~ in subsection (1) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed then such additional cost shall be specified in the contract. ~~(G)~~
- 2) If the cost of any itemized service or product to be provided by the facility or related institutions to the resident cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract. ~~(G)~~
- n) THE CONTRACT SHALL SPECIFY THE SOURCES LIABLE FOR PAYMENTS DUE UNDER THE CONTRACT.
- o) 1) THE CONTRACT SHALL SPECIFY THE AMOUNT OF DEPOSIT PAID.
- 2) Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract



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## Section 330.730(o)(2) (continued)

shall specify when such deposit shall be paid by the resident and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions the deposit shall be returned to the resident. If the deposit is nonrefundable the contract shall provide express notice of such nonrefundability. ~~(G)~~

p) THE CONTRACT SHALL SPECIFY THE RIGHTS, DUTIES AND OBLIGATIONS OF THE RESIDENT, EXCEPT THAT THE SPECIFICATION OF A RESIDENT'S RIGHTS MAY BE FURNISHED ON A SEPARATE DOCUMENT WHICH COMPLIES WITH THE REQUIREMENTS OF SECTION 2-211 OF THE ACT. ~~(G)~~

q) THE CONTRACT SHALL DESIGNATE THE NAME OF THE RESIDENT'S REPRESENTATIVE, IF ANY. The resident shall provide the facility with a copy of the written agreement between the resident and the resident's representative which authorizes the resident's representative to inspect and copy the resident's records and authorizes the resident's representative to execute the contract on behalf of the resident required by Section 2-202 of the Act. ~~(G)~~

r) THE CONTRACT SHALL PROVIDE THAT IF THE RESIDENT IS COMPELLED BY A CHANGE IN PHYSICAL OR MENTAL HEALTH TO LEAVE THE FACILITY, THE CONTRACT AND ALL OBLIGATIONS UNDER IT SHALL TERMINATE ON SEVEN ~~(7)~~ DAYS NOTICE. IT SHALL ALSO PROVIDE THAT IN ALL OTHER SITUATIONS, A RESIDENT MAY TERMINATE THE CONTRACT AND ALL OBLIGATIONS UNDER IT WITH ~~THIRTY (30)~~ DAYS NOTICE. ALL CHARGES SHALL BE PRORATED AS OF THE DATE ON WHICH THE CONTRACT TERMINATES, AND, IF ANY PAYMENTS HAVE BEEN MADE IN ADVANCE, THE EXCESS SHALL BE REFUNDED TO THE RESIDENT. THIS PROVISION SHALL NOT APPLY TO LIFE-CARE CONTRACTS THROUGH WHICH A FACILITY AGREES TO PROVIDE MAINTENANCE AND CARE FOR A RESIDENT THROUGHOUT THE REMAINDER OF HIS LIFE NOR TO CONTINUING-CARE CONTRACTS THROUGH WHICH A FACILITY AGREES TO SUPPLEMENT ALL AVAILABLE FORMS OF FINANCIAL SUPPORT IN PROVIDING MAINTENANCE AND CARE FOR A RESIDENT THROUGHOUT THE REMAINDER OF HIS LIFE. ~~(G)~~

s) After July 1, 1982, all facilities which offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the "Life Care Facilities Act," (Ill. Rev. Stat. ~~1983-1987~~, ch. 111 1/2, par. 4160-1 et seq.) as now or hereafter amended, including the obtaining of a permit from the Department,

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## Section 330.730(s) (continued)

before they may enter into such contracts. ~~(G)~~

t) IN ADDITION TO ALL OTHER CONTRACT SPECIFICATIONS CONTAINED IN THIS SECTION, ADMISSION CONTRACTS SIGNED OR RENEWED AFTER JULY 1, 1985 SHALL ALSO SPECIFY: ~~(G)~~

1) WHETHER THE FACILITY ACCEPTS MEDICAID CLIENTS;

2) WHETHER THE FACILITY REQUIRES A DEPOSIT OF THE RESIDENT OR HIS FAMILY PRIOR TO THE ESTABLISHMENT OF MEDICAID ELIGIBILITY;

3) IN THE EVENT THAT A DEPOSIT IS REQUIRED, A CLEAR AND CONCISE STATEMENT OF THE PROCEDURE TO BE FOLLOWED FOR THE RETURN OF SUCH DEPOSIT TO THE RESIDENT OR THE APPROPRIATE FAMILY MEMBER OR GUARDIAN OF THE PERSON;

4) THAT ALL DEPOSITS MADE TO A FACILITY BY A RESIDENT, OR ON BEHALF OF A RESIDENT, SHALL BE RETURNED BY THE FACILITY WITHIN 30 DAYS OF THE ESTABLISHMENT OF MEDICAID ELIGIBILITY, UNLESS SUCH DEPOSITS MUST BE DRAWN UPON OR ENCUMBERED IN ACCORDANCE WITH MEDICAID ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE ILLINOIS DEPARTMENT OF PUBLIC AID. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4152.202(j))

u) IT SHALL BE A BUSINESS OFFENSE FOR A FACILITY TO KNOWINGLY AND INTENTIONALLY BOTH RETAIN A RESIDENT'S DEPOSIT AND ACCEPT MEDICAID PAYMENTS ON BEHALF OF THE RESIDENT. (Ill. Rev. Stat. ~~1985-Supp.~~ 1987, ch. 111 1/2, par. 4152.202(k))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.740 Residents' Advisory Council

a) EACH FACILITY SHALL ESTABLISH A RESIDENT'S ADVISORY COUNCIL CONSISTING OF AT LEAST FIVE ~~(5)~~ RESIDENT MEMBERS. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. THE ADMINISTRATOR SHALL DESIGNATE ANOTHER ~~A~~ MEMBER OF THE FACILITY STAFF (OTHER THAN ~~HIMSELF/HERSELF~~ THE ADMINISTRATOR) TO COORDINATE THE ESTABLISHMENT OF, AND RENDER ASSISTANCE TO, THE COUNCIL. ~~(G)~~

b) Each facility shall develop and implement a plan for assuring a

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## Section 330.740(b) (continued)

liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

- 1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives ~~---etc---~~ on the resident advisory council;
- 2) the establishment of a separate community advisory group with persons of the residents' choosing;
- 3) finding a church or civic group to "adopt" the facility; or
- 4) the establishment of a family council made up of families and friends of residents who live in the community. ~~---(C)---~~

c) The resident members shall be elected to the council by vote of their fellow residents and the nonresident members shall be elected to the council by vote of the resident members of the council. ~~---(C)---~~

d) In facilities of ~~---fifty---~~ 50 beds or less, the resident advisory council may consist of all of the residents of the facility, if the residents choose to operate this way. ~~---(C)---~~

e) All resident advisory councils shall elect at least a Chairperson/President and a Vice Chairperson/Vice President from among the members of the council. These persons shall preside at the meetings of the council, assisted by the facility staff person designated by the administrator to provide such assistance. ~~---(C)---~~

f) Some facilities may wish to establish mini-resident advisory councils for various smaller units within the facility. If this is done, each such unit shall be represented on an overall facility residents' advisory council with the composition described in Section 330.740(a). ~~---(C)---~~

g) All residents' advisory council meetings shall be open to participation by all residents ~~and/or~~ and their representatives. ~~---(C)---~~

h) No employee or affiliate of any facility shall be a member of any council. Such persons may attend to discuss interests or functions of the nonmembers when invited by a majority of the officers of the residents' advisory council. ~~---(C)---~~

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## Section 330.740 (continued)

i) THE COUNCIL SHALL MEET AT LEAST ONCE EACH MONTH WITH THE STAFF COORDINATOR WHO SHALL PROVIDE ASSISTANCE TO THE COUNCIL IN PREPARING AND DISSEMINATING A REPORT OF EACH MEETING TO ALL RESIDENTS, THE ADMINISTRATOR, AND THE STAFF. ~~---(C)---~~

j) RECORDS OF THE COUNCIL MEETINGS WILL BE MAINTAINED IN THE OFFICE OF THE ADMINISTRATOR. ~~---(C)---~~

k) THE COUNCIL SHALL BE A FORUM FOR:

- 1) OBTAINING AND DISSEMINATING INFORMATION;
- 2) SOLICITING AND ADOPTING RECOMMENDATIONS FOR FACILITY PROGRAMMING AND IMPROVEMENTS;
- 3) EARLY IDENTIFICATION OF PROBLEMS;
- 4) RECOMMENDING ORDERLY RESOLUTION OF PROBLEMS.

l) THE COUNCIL MAY PRESENT COMPLAINTS ON BEHALF OF A RESIDENT TO THE DEPARTMENT, OR TO ANY OTHER PERSON IT CONSIDERS APPROPRIATE.

(Source: Amended at 13 Ill. Reg. ~~---~~, effective ~~---~~)

## Section 330.750 General Policies

a) The facility shall have daily visiting hours from 10 A.M. to 8 P.M. daily. ~~---(C)---~~

b) There shall be no resident traffic through a resident's room by residents of the opposite sex to reach any other area of the building. ~~---(C)---~~

c) Children, not employed in the facility, under ~~---sixteen---~~ 16 years of age related to employees, owners, or administrators shall be restricted to quarters reserved for family or employee use except during times when such children are part of a group visiting the facility as part of a planned program, or similar activity. ~~---(C)---~~

(Source: Amended at 13 Ill. Reg. ~~---~~, effective ~~---~~)



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## Section 330.760 Personnel Policies

- a) Each facility shall develop and maintain ~~There shall be~~ written personnel policies which policies are followed in the operation of the facility. ~~that shall include, but are not limited to, the following: These policies shall include at a minimum each of the requirements of this Section. (C)~~
- b) Employee Records
- 1) Employment application forms shall be completed on each employee and kept on file in the facility. They shall be available to Department personnel for review. These forms shall contain date of employment, age or birthdate, home address, educational background, past experience including types of employment, where previously employed, type of position employed to fill in this facility, last day employed (if no longer in present facility) and reasons for leaving. ~~(C)~~
  - 2) Individual personnel files for each employee shall also contain ~~other pertinent personnel data such as~~ health records, including the initial health evaluation required under Section 330.765(a), the results of the tuberculin skin test required under Section 330.765(e), ~~and any other pertinent health records and evaluation of performance. (C)~~
- ~~3) —~~
- ~~A) Each employee shall have a physical examination which has been conducted within a period of ten (10) days before or after employment and annually thereafter. This shall include findings that permit certification that the employee is free of communicable, contagious or infectious diseases. Additional physical examinations may be requested at the discretion of the Department according to the rules for the "Control of Communicable Diseases" (77 Ill. Adm. Code 690), Illinois Department of Public Health.~~
- ~~B) This initial physical exam shall include documentation regarding past or present tuberculosis infection, determined by either a tuberculosis skin test, or a chest x-ray taken within one (1) year prior to or ten (10) days after initial employment. Repeat skin tests and/or chest x-rays are not required unless the employee is exposed to a person with tuberculosis in its contagious stage or has signs and symptoms of disease. However, they are highly recommended, especially for persons~~

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## Section 330.760 (continued)

- ~~residing or working in high risk areas of the State —~~
- ~~C) It is also recommended that employees who have been infected with tuberculosis (positive skin reaction) and have not had a full course of chemoprophylaxis or chemotherapy should complete one (1) year of daily IHH unless contraindicated because of age or physical condition. Depending on their risk of developing disease, as determined by their physician, employees who have been infected and have not been able to complete a full course of preventive treatment should have a chest x-ray annually. (B, C)~~
- ~~4) An employee diagnosed or suspected of having a contagious or infectious disease shall not be on duty until such time as a written statement is obtained from a physician that the disease is no longer contagious or is found to be noninfectious. (B, C)~~
- ~~b) General.~~
- ~~1) —~~
- c) All personnel shall have either training or experience, or both, in the job assigned to them. ~~(B, C)~~
- d) Orientation and In-Service Training
- 1) ~~2) —~~ There shall be an ongoing planned inservice program embracing orientation to the facility and its policies, skill training and ongoing education carried out to enable all personnel to perform their duties effectively. Written records of program content and personnel attending shall be kept. ~~(B, C)~~
  - 2) ~~3) —~~ No employee shall be assigned duties other than those directly related to his job functions, as identified in his job description, except in emergencies. ~~(B, C)~~
  - 3) ~~4) —~~ There shall be a plan to provide a program of personnel coverage for regular staff when they are absent. ~~(B, C)~~
  - 4) ~~5) —~~ Every facility shall have a dated weekly employee time schedule posted in a convenient place where employees may refer to it. This shall contain employee's name, job title, shift assignment, hours of work, and days off. This shall be kept on file in the

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## Section 330.760(d)(4) (continued)

facility for one ~~(1)~~ year. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.765 Initial Health Evaluation for Employees

- a) Each employee shall have an initial health evaluation which shall be used to insure that employees are not placed in positions which would pose undue risk to infection to themselves, other employees, residents, or visitors.
- b) The initial health evaluation shall be conducted not more than 30 days prior to the employee beginning employment in the facility. The evaluation shall be completed not more than 30 days after the employee begins employment in the facility.
- c) The initial health evaluation shall include a health inventory. This inventory shall be obtained from the employee and shall include the employee's immunization status and any available history of conditions which would predispose the employee to acquiring or transmitting infectious diseases. This inventory shall include any history of exposure to, or treatment for, tuberculosis. The inventory shall also include any history of hepatitis, dermatologic conditions, or chronic draining infections or open wounds.
- d) The initial health evaluation shall include a physical examination. The examination shall include at a minimum any procedures needed in order to:
  - 1) Detect any unusual susceptibility to infection and any conditions which would increase the likelihood of the transmission of disease to residents, other employees, or visitors.
  - 2) Determine that the employee appears to be physically able to perform the job functions which the facility intends to assign to the employee.
- e) The initial health evaluation shall include a tuberculin skin test which is conducted in accordance with the requirements of Section 330.1135. The test must meet one of the following timeframes:
  - 1) The test must be completed no more than 90 days prior to the date of initial employment in the facility, or

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## Section 330.765(e) (continued)

- 2) The test must be commenced no more than ten days after the date of initial employment in the facility.

(Source: Added at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.770 Disaster Preparedness

- a) Each facility shall have policies covering disaster preparedness including a written plan for staff and residents to follow in case of fire, explosion, severe weather or other hazardous circumstances or emergencies. The plan shall be rehearsed at least twice a year for each shift. The plan shall include, but is not limited to, the following: ~~(B)(6)~~
  - 1) All personnel employed on the premises shall be properly instructed in the use of fire extinguishers. ~~(B)(6)~~
  - 2) A written plan of evacuation posted, and made familiar to all personnel employed on the premises. ~~(C)~~
- b) Fire and disaster drills shall be held at least quarterly, for each shift of facility personnel and under varied conditions, in order to: ~~(C)~~
  - 1) Ensure that all personnel on all shifts are trained to perform assigned tasks;
  - 2) Ensure that all personnel on all shifts are familiar with the use of the fire-fighting equipment in the facility;
  - 3) Evaluate the effectiveness of disaster plans and procedures;
  - 4) Fire and disaster drills shall include simulation of evacuation of residents to safe areas during at least one drill each year on each shift.
  - 5) There shall be special provisions for the evacuation of the physically handicapped, including deaf ~~and/or~~ or blind, such as fire chutes and mattress loops with poles.
  - 6) Where the welfare of the residents precludes an actual evacuation of an entire building, there must be drills involving the evacuation of successive portions of the building under such conditions as to assure the capability of evacuating the entire



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## Section 330.770(b)(6) (continued)

building with the personnel usually available, should the need arise.

- 7) There shall be a written evaluation submitted to the facility administrator which shall be maintained for three years.

- c) A written plan shall be developed for temporarily relocating the residents for any emergency requiring relocation and any time the temperature in residents' bedrooms falls below ~~fifty-five (55)~~ degrees Fahrenheit for ~~twelve (12)~~ hours or more. ~~(C)~~

d)

- 1) Upon the occurrence of any emergency or disaster requiring hospital service, police, fire department or coroner, the facility administrator or their designee must provide a preliminary report by phone immediately, or at the latest the next working day, the Department utilizing either the nursing home hotline or by contacting directly the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:

- A) Name and location of facility;
  - B) type of emergency;
  - C) number of injuries or deaths to residents;
  - D) number of beds not usable due to the event;
  - E) estimate of the extent of damages to the facility;
  - F) type of assistance needed, if any;
  - G) other state or local agencies notified about the problem.
- 2) If the emergency will not require direct Departmental assistance, the facility shall provide the preliminary report within 24 hours of the incident. Additionally, the Department shall receive a full written account within seven ~~(7)~~ days of the incident which includes the information specified in subsections (d)(1)(A) through (d)(1)(G) above and a statement of action taken by the facility after the preliminary report. ~~(C)~~

- e) Each facility shall establish and implement policies and procedures

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## Section 330.770(e) (continued)

in a written plan to provide for the health, safety, welfare and comfort of all residents whenever the temperature and relative humidity inside the residents living, dining, activities or sleeping areas of the facility are equal to or exceed the upper or lower limit lines (the solid lines) of the chart, "Zones of Physiological Perception, displayed in Table A: Disaster Preparedness Parameters -- Relative Humidity and Temperature. (A, B, ~~C~~)

(Source: Amended at 13 Ill. Reg. , effective )

## Section 330.780 Serious Incidents and Accidents

- a) The facility shall notify the Department of any incident or accident which has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department.

- 1) Notification shall be made by a phone call to the Regional Office within ~~twenty-four (24)~~ hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number. ~~(C)~~
  - 2) A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven ~~(7)~~ days of the occurrence. ~~(C)~~
  - b) A descriptive summary of each incident or accident shall be recorded in the progress notes or nurses' notes for each resident involved. ~~(C)~~
  - c) The facility shall maintain a file of all written reports of serious incidents or accidents involving residents. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. , effective )

## SUBPART D: PERSONNEL

## Section 330.910 Personnel

- a) Sufficient staff in numbers and qualifications shall be on duty all

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## Section 330.910(a) (continued)

hours of each day to provide services that meet the total needs of the residents. As a minimum, there shall be at least one ~~(1)~~ staff member awake, dressed, and on duty at all times ~~each of the three (3) eight (8) hour shifts each day. (A, B, C)~~

- b) The facility shall provide an administrator as set forth in Subpart B. (B)
- c) The facility shall provide activity personnel as set forth in Section 330.1310(b). (B, C)
- d) The facility shall provide dietary personnel as set forth in Sections 330.1910 through 330.1920. (B, C)
- e) Facilities that care for mentally retarded ~~and/or~~ or discharged psychiatric residents shall be required to have a social worker who shall devote at least ~~forty (40)~~ hours per week providing that the facility cares for ~~seventy-five (75)~~ or more residents. Facilities caring for less than ~~seventy-five (75)~~ residents shall have a social worker who may be assigned other duties or shared with other facilities. (B, C)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.913 Nursing and Personal Care Assistants

- a) Each of the facility's nursing and personal care assistants shall comply with one of the following conditions no later than 45 days after the date of initial employment.

- 1) Enroll in a Basic Nursing Assistant Training Program which has been approved by the Department under its rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). The program coursework shall be successfully completed by the nursing and personal care assistant no later than 120 days after the date of initial employment, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.

- 2) Register for the Department's nursing assistant proficiency examination which must be successfully completed no later than 120 days after the date of initial employment.

- 3) Provide documentation of equivalent nursing and personal care

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## Section 330.913(a)(3) (continued)

assistant training in accordance with Section 395.300 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). Such documentation shall be retained by the facility as part of the employee's personnel record.

- b) Each person employed by the facility as a nursing and personal care assistant shall meet each of the following requirements:

- 1) Be at least sixteen years of age, of temperate habits and good moral character, honest, reliable and trustworthy.
- 2) Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents.
- 3) Provide evidence of employment or occupation, if any, and residence for two years prior to initial employment as a nursing and personal care assistant.
- 4) Have completed at least eight years of grade school or provide proof of equivalent knowledge.

- c) The facility shall certify on a form provided by the Department that each nursing and personal care assistant employed by the facility meets the requirements of this Section. Such form shall be retained by the facility as part of the employee's personnel record.

- d) During inspections of the facility, the Department may require nursing and personal care assistants to demonstrate competency in the principles, techniques, and procedures covered by the basic nursing assistant training program curriculum described in Section 395.200 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395). Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall address all of the basic nursing assistant training principles, techniques, and procedures contained in Section 395.200 of the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395).

(Source: Added at 12 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 330.916 Student Interns

- a) No person who meets the definition of student intern shall be required to complete a current course of training for nursing assistants, or successfully complete the Department's proficiency examination.
- b) The facility may utilize interns to perform basic nursing and personal care assistant practices, but shall not allow interns to provide rehabilitation nursing, in-bed bathing, assistance with skin care, foot care, enemas, or any medical procedure, except under the direct, immediate supervision of a licensed nurse or certified nursing assistant.
- c) No facility shall have more than fifteen percent of its nursing and personal care assistant staff positions held by student interns.
- (Source: Added at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.920 Consultation Services

- a) The facility shall designate a staff member to provide social services to residents. If the staff member designated to provide social services is not a registered or certified social worker, the facility shall have an effective arrangement with a registered or certified social worker to provide social service consultation. ~~(C)~~
- b) The facility shall have a written agreement for activity program consultation if required under Section 330.1310(c). ~~designate a staff member to be the director of the activities program. If this person is not a Registered Occupational Therapist, a Therapeutic Recreation Specialist, or a Certified Social Worker, the facility shall have a written agreement made with a person from one of those disciplines, to provide consultation to the activity director and shall assure the programming meets the needs of the residents. (C)~~
- c) The facility shall make arrangements for dietary consultation as set forth in Section 330.1960 (d) and (e). (B, ~~C~~)
- d) If the facility does not have a nurse currently registered to practice as a registered professional nurse in Illinois, arrangements shall be made for consultation from a person so qualified. She shall assist with the development of policies, methods and procedures relating to the medical program, medication, in-service on these medications and in-service training and all aspects of personal

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## Section 330.920(d) (continued)

care. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.930 Personnel Policies

The personnel policies required in Section 330.760 and other personnel policies established by the facility shall be followed in the operation of the facility.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

## Section 330.1110 Medical Care Policies

- a) The facility shall have a written program of medical services approved in writing by the advisory physician that reflects the philosophy of care provided, the policies relating to this and the procedures for implementation of the services. The program shall include the entire complex of services provided by the facility and the arrangements to effect transfer to other facilities as promptly as needed. The written program of medical services shall be followed in the operation of the facility. (B, ~~C~~)
- b) The services of a physician licensed to practice medicine in Illinois shall be available to every resident of the facility. Residents in facilities operated under bona fide Christian Science auspices may be exempt from this requirement. (A, B)
- c) 1) The resident or his guardian shall be permitted his choice of a physician. ~~(C)~~
- 2) The resident shall be seen by ~~his/her~~ their physician as often as necessary to assure adequate health care. (A, B, ~~C~~)
- d) Each resident admitted shall have a complete physical examination, within five ~~(5)~~ days prior to admission, or within ~~seventy-two (72)~~ hours after admission to the facility. This examination shall include documentation of the presence or the absence of tuberculosis infection by tuberculin skin test in accordance with Section 330.1135 and an evaluation of the resident's condition and

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## Section 330.1110(d) (continued)

recommendations for his care including personal care needs and permission for participation in the activity program. (See Section 330.1310(c).) (B-~~G~~)

- e) The facility shall notify the physician of any accident, injury, or unusual change in a resident's condition. (A, B)
- f) At the time of an accident, immediate treatment shall be provided by personnel trained in medically approved first aid procedures. (A, B)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1120 Personal Care

- a) Each resident shall have proper daily personal attention ~~and/or~~ and care including skin, nails, hair, and oral hygiene, in addition to treatment ordered by the physician. (B-~~G~~)
- b) Each resident shall have at least one ~~(1)~~ complete bath and hair wash weekly and as many additional baths and hair washes as necessary for satisfactory personal hygiene. (B-~~G~~)
- c) Each resident shall have clean suitable clothing in order to be comfortable, sanitary, free of odors, and decent in appearance. ~~(C)~~
- d) Each resident shall have clean bed linens at least once weekly and more often if necessary. ~~(C)~~
- e) Each resident shall have sufficient clothing, in good condition, to be properly dressed each day. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1130 Communicable Disease Policies

- a) The administrator shall assume the responsibility for meeting the Department's rules entitled ~~all the rules for the~~ "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) ~~Illinois Department of Public Health~~, so that there is a minimum danger of transmission of contagious, infectious, or communicable diseases. (B)
- b) No resident with a communicable, contagious, or infectious disease

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## Section 330.1130(b) (continued)

shall be admitted knowingly. An individual, when suspected or diagnosed as having any such disease, after admission, shall be placed in isolation in accordance with the Department's rules entitled ~~for the~~ "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) ~~Illinois Department of Public Health~~ until removed from the facility. (A, B-~~G~~)

- c) All illnesses required to be reported under subsection (a) of this Section ~~above~~ shall be reported immediately to the local health department and to this Department. The administrator shall furnish all pertinent information relating to such occurrences. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1135 Tuberculin Skin Test Procedures

Tuberculin skin test for employees and residents shall be conducted in accordance with the requirements in this Section.

- a) Where there is documentation for an employee or resident of previous significant skin test reaction and previous treatment for tuberculosis, no skin test is required. The facility shall retain such documentation of testing and treatment in the employee's personnel record or the resident's medical record.
- b) The tuberculin skin test shall consist of five tuberculin units of purified protein derivative administered intradermally using the Mantoux method.
- c) A significant reaction shall be considered to exist when either of the following conditions are present:
  - 1) There is an area of induration ten mm or more in diameter.
  - 2) There is an area of induration five mm or more in diameter and the attending physician or local health authority suspect tuberculosis on the basis of disease or exposure.
- d) If the first test is nonsignificant, a second test shall be given at least one week, but no more than three weeks, after the first test.
- e) If the first or second test reaction is significant, or if active tuberculosis is suspected at any time, the attending physician or local health authority shall order any further examination and



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Section 330.1135(e) (continued)

treatment which is considered necessary, such as x-rays, cultures, or sputum smears.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 330.1140 Behavior Emergencies

- a) If a resident becomes disturbed or unmanageable, the resident ~~he~~ shall be examined by the resident's ~~his/her~~ physician ~~and/or~~ or ~~a~~ psychiatrist. This medical examination shall be made promptly. (B-~~6~~-~~6~~)

- b) No form of seclusion shall be permitted. ~~(C)~~

- c) Restraints shall be used only in an emergency to protect the resident from harming himself or harming other residents, visitors or staff. If it is necessary to use restraints for this purpose, the attending physician shall be contacted immediately for his orders for this emergency. In the event the attending physician is not immediately available, the facility's advisory physician shall be contacted for such orders. This emergency use of restraints shall only be temporary and for a short period of time until other arrangements can be made to transfer the resident to an appropriate facility or until the resident can be restored through medical treatment to his normal behavior pattern. In a single emergency, restraints shall not be used for a period of more than four ~~(4)~~ hours. If a restraint is used for more than two ~~(2)~~ hours, it must be released for a few minutes at least once every two ~~(2)~~ hours, or more often if necessary. There must be close observation of the resident while a restraint is being used. No restraints with locking devices may be used. (B)

- d) The reason for using the restraint must be recorded in the resident's record and if retained in the facility for a short period for medical treatment, the attending physician must indicate the need for the use of a restraint in the resident's record. If the physician's order is a telephone order, it shall be immediately recorded on the resident's record and countersigned by the physician within ~~seventy-two~~ ~~(72)~~ hours in the same manner as physicians orders for medications in an emergency. ~~(C)~~

- e) There shall be written policies which are followed in the operation of the facility, covering the use of restraints. (B-~~6~~-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART F: RESTORATIVE SERVICES

Section 330.1310 Activity Program

- a) There shall be a specific planned program of group and individual activities designed to encourage restoration to self care and maintenance of normal activity which is geared to the individual resident's needs. Activities shall be available daily and for a reasonable amount of time. Residents shall be given an opportunity to contribute to planning, preparation, conducting, cleanup, and critique of the program. (B-~~6~~-~~6~~)
- b) Activity personnel shall be provided to meet the needs of the residents and the program. Activity staff time each week shall total not less than 45 minutes multiplied by the number of residents in the facility. This time shall be spent in providing activity programming as described in subsection (e) of this Section as well as the planning and directing of the program. The time spent in the performance of other duties not related to the activity program shall not be counted as part of the required activity staff time. (In a facility whose residents participate in regularly scheduled therapeutic programs outside the facility, such as school, employment or sheltered workshop, the minimum hours per week of activity staff time may be reduced. The reduction shall be calculated by multiplying the number of residents in the facility who participate in such programs by the percentage of the day these residents spend in such programs.)

- c) Activity Director and Consultation

- 1) There shall be a trained staff person designated responsible for planning and directing the activities program. This person shall regularly scheduled to be on duty in the facility at least ~~4~~ four days per week.
- 2) If this person is not a Registered Occupational Therapist, a Therapeutic Recreation Specialist, or a Certified Social Worker with specialized coursework in social group work, the facility shall have a written agreement with a person from one of those disciplines to provide consultation to the Activity Director at least monthly, in order to make sure that the activity programming meets the needs of the residents.
- 3) Any person designated as Activity Director who is responsible for planning and directing the activities program hired after December 24, 1987, shall have a high school diploma or equivalent.

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## Section 330.1310(c) (continued)

- 4) The activity director shall have a minimum of ten ~~(10)~~ hours of continuing education per year pertaining to activities programming.
- 5) Consultation will be required only every six months when the activity director meets or exceeds the criteria in Appendix D: Criteria for Activity Directors Who Need Only Minimal Consultation. (See Section 330.920(b) for consultant services when required).
- d) There shall be written permission, with any contraindications stated, given by the resident's physician for the resident to participate in the activity program. Standing orders will be acceptable with individual contraindications noted. (B-~~6~~)
- e) The activity program should include at a minimum the following program areas:
  - 1) Recreational activities (examples: games, both quiet and active; parties; outside entertainment-~~etc.~~).
  - 2) Crafts (applicable for both men and women).
  - 3) Religious activities (examples: Bible study or discussion; Bible quizzes and games; hymn singing; grace at meals-~~etc.~~). These are in addition to routine religious services.
  - 4) Service activities for community ~~and/or~~ or facility (examples: assist with community fund drives; projects for orphanages; care of one's own area in the facility; helping to fold linen-~~etc.~~).
  - 5) Intellectual and educational activities (examples: classes in writing, arithmetic, grooming, and social graces; planned group discussion; quizzes and word games; resident council; newsletter-~~etc.~~).
  - 6) Community activities (examples: residents' participation in community activities such as plays; church events; band concerts; tours-~~etc.~~).
- f) A planned volunteer ~~and/or~~ or auxiliary program that assists with the activities program shall be encouraged. It shall be under the direction of a staff member in a supervisory capacity.

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## Section 330.1310(e) (continued)

- g) Documentation of resident's response to program shall be part of the resident's record as set forth in Section 330.1710(f)(1).

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.1320 Work Programs

Work programs for residents in facilities may be allowed if they are oriented toward resident adjustment and therapeutic benefits. ~~(C)~~

- a) Permission for such programming shall be secured from the Department. The program shall be presented in writing indicating such things as objectives, possible work assignment, duties, policies governing the program, agency involvement (where appropriate), and supervision. ~~(C)~~
- b) Residents involved in such programs shall meet all requirements of the Department for persons functioning in these positions. ~~(C)~~
- c) Residents shall not be used to replace employed staff. (B)
- d) Appropriate records shall be maintained for each resident functioning in these programs. These shall show appropriateness of the program for the individual, resident's response to the program and any other pertinent observations and shall become a part of the resident's record. (See Section 330.1710(f)(1).) ~~(C)~~
- e) All such programs shall be in full compliance with all applicable regulations of both the State and Federal Departments of Labor. Any program found by the Department not to be in compliance with State and Federal Departments of Labor regulations shall be terminated immediately. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.1330 Written Policies for Restorative Services

There shall be written policies, which are followed in the operation of the facility covering all restorative services offered by the facility to achieve and maintain the highest possible degree of function, self-care and independence. These shall be developed as set forth in Section 330.710 (a) through (c). (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)



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SUBPART G: MEDICATIONS

Section 330.1510 Medication Policies

- a) Every facility shall adopt written policies and procedures, which are consistent with the purpose of the Act and this Part ~~these Rules and Regulations~~ and which shall be followed in the operation of the facility, for assisting residents in obtaining individually prescribed medication for self-administration and for disposing of medications prescribed by the attending physicians. (A, B, ~~C~~)
  - 1) These policies and procedures shall be developed with consultation from an Illinois registered professional nurse and a registered pharmacist. These policies and procedures shall be part of the written program of care and services. (See Section 330.710.) (B, ~~C~~)
  - 2) All medications taken by residents in a facility must be ordered by the attending physician directly from a pharmacy. Facility staff may not order medication from a pharmacy, unless the facility has a licensed nurse who supervises the medication regimen of the residents. In such facilities, the nurse may transmit the physician's orders to the pharmacy, as is done in nursing homes. (A, B, ~~C~~)
  - 3) If the policies of the facility permit residents to be totally responsible for their own medication, when the attending physician gives written permission for such action, the policies of the facility shall provide that the resident and attending physician shall be given written statements concerning the relative responsibilities of each of the three parties (facility, resident and physician), in cases where the resident, or any other person, suffers harm due to the resident's actions in handling ~~his/her~~ their own medications. ~~(C)~~
  - 4) If the facility elects to administer medications to some residents for control purposes, the medications must be administered by licensed physicians ~~and/or~~ or nurses.
- b)
- 1) No facility shall stock drugs. ~~(C)~~
  - 2) No facility shall operate a pharmacy. ~~(C)~~
- c)
- All medications on individual prescription or from the physician's personal supply shall be properly labeled as set forth in Section 330.1530(f). (A, B)

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Section 330.1510(c) (continued)

- 1) All other medications shall be authorized by a physician for individual resident use, and shall be clearly identified with the resident's name. (A, B, ~~C~~)
  - 2) Attending physicians shall review the medication regimen of each resident at least every six ~~(6)~~ months. Documentation of this review shall be entered in the resident's record. (B, ~~C~~)
- d)
- 1) All medications used by residents shall be properly recorded by facility staff at time of use. (See Section 330.1710(g).) ~~(C)~~
  - 2) A medication record need not be kept for those residents for whom the attending physician has given permission to keep their medication in their room and to be fully responsible for taking the medications in the correct dosage and at the proper times themselves.
  - e) Bottled oxygen may not be administered in a facility, except in an emergency. Not more than one 12-pound portable size tank of oxygen for such an emergency use shall be kept in the facility. However, the use of an oxygen concentrator is permitted when prescribed by a physician for a resident. The facility must be in compliance with directions for use of such equipment as established by the manufacturer. (A, B, ~~C~~)
  - f) All discontinued legend or controlled drugs, all medications having an expiration date that has passed, and all medications of residents who have expired, shall be disposed of in accordance with the rules and regulations of the Federal Drug Enforcement Administration by the prescribing physician or the consultant pharmacist. A notation of their disposition shall be made in the resident's record. (B, ~~C~~)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 330.1520 Administration of Medication
- a) All medications taken by residents in this type of facility must be self-administered, unless administered by a nurse or physician properly licensed to practice in Illinois. Facility staff shall NOT administer medication to residents unless the staff person is a properly licensed nurse or physician. (B, ~~C~~)

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## Section 330.1510(f) (continued)

- b) No person shall be admitted to this type of facility who is not capable of taking ~~his/her~~ their own medications ~~and/or~~ or biologicals (such as serums, vaccines, antigens and antitoxins), as approved in writing by the resident's personal physician. Facility staff, as they exercise program oversight, may remind a resident when to take medications and watch to ensure that ~~he/she~~ they follow ~~the~~ the directions on the container. (B-~~1~~-G-)
- c) 1) Facility staff may assist a resident in the self-administration of medications by taking the medication from the locked area where it is stored and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.
- 2) Facility staff may also assist physically impaired residents, such as those who have arthritis, cerebral palsy, and Parkinson's disease ~~etc.~~, in the removal of the medication from the container and in assisting the resident in consuming or applying the medication when requested to do so by the resident. (For example, a staff member may place a dose of medicine in a container and place the container to the mouth of a resident who would not be able to do so himself without spilling it.) (B-~~1~~-G-)

Attorney General's Opinion File No. 5-1033, dated January 9, 1976, concluded that the administration of medication to residents of licensed long-term care facilities is a nursing procedure, as defined in the Illinois Nursing Act (Ill. Rev. Stat. 1973, ch. 91, pars. 35.32 et seq.), and, as such, cannot be performed by persons who are not licensed as either Registered Professional Nurses or Licensed Practical Nurses. The opinion concluded by stating that "nursing aides, orderlies, attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer medications to patients in nursing homes."

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1530 Labeling and Storage of Medications

- a) All medications shall be stored in a locked area at all times. Areas shall be well lighted and of sufficient size to permit storage without crowding. This area may be a drawer, cabinet, closet, or room. In those facilities where a licensed nurse dispenses medication to residents, medications may be stored in a locked mobile

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## Section 330.1530(a) (continued)

- medication cart, which is made immobile when not in use by the nurse to dispense medication. (B-~~1~~-G-)
- b) The key to the medicine area shall be the responsibility of, and in the possession of, the staff persons responsible for overseeing the self-administration of medications by residents. (B-~~1~~-G-)
- 1) The medicine area shall not be used for any other purpose. It shall not be located in residents' rooms, bathrooms, or the kitchen. However, for those persons whom the attending physician has given written permission to handle their own medication, medications may be stored in a locked drawer or cabinet in the resident's room along with other possessions of that resident. (B-~~1~~-G-)
- 2) Residents for whom the attending physician has given permission to be totally responsible for their own medication shall maintain possession of the key, or combination of the lock, to their own medication storage area. A duplicate key, or a copy of the combination, shall be kept by the facility in its safe, or some other secure place, for emergency use, such as if the resident should lose or misplace ~~his/her~~ their key, or forget the combination. (B-~~1~~-G-)
- c) Medications for external use shall be kept in a separate location in the medicine area or in a separate locked area. (B-~~1~~-G-)
- d) All poisonous substances and other hazardous compounds shall be kept in a separate locked area away from medications. (B-~~1~~-G-)
- e) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked container in a refrigerator, or in a locked refrigerator. (B-~~1~~-G-)
- f) The label of each individual medication container filled by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name and strength of drug, amount of drug, date of issue, expiration date of all time-dated drugs; name, address, and telephone number of pharmacy issuing the drug; and the initials of the pharmacist filling the prescription. If the individual medication container is filled by a physician from his own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist, and prescription number. (B-~~1~~-G-)



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## Section 330.1530 (continued)

- g) Medication in containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for refilling or disposal. Medications in containers having no labels shall be destroyed in accordance with Federal and State laws.
- h) The medications of each resident shall be kept and stored in their originally received containers. Medications shall not be transferred between containers. (B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: RESIDENT AND FACILITY RECORDS

## Section 330.1710 Resident Record Requirements

- a) Each facility shall have a medical record system that facilitates the retrieval of information regarding individual residents as demonstrated by the facility. ~~(G)~~
- b) The facility shall keep an active medical record for each resident. This resident record shall be kept current, complete, legible and available at all times to those personnel authorized by the facility's policies, and to the Department's representatives. ~~(G)~~
- c) Record entries shall meet the following requirements
- 1) Record entries shall be made by the person providing or supervising the service or observing the occurrence that is being recorded. ~~(G)~~
  - 2) Each record entry shall be written in ink or typed, shall be signed, dated, and shall include the profession or title of the person making the entry. ~~(G)~~
- d) All physician's orders and plans of treatment shall have the original written signature of the physician. The use of a physician's rubber stamp signature, with or without initials, is not acceptable. ~~(G)~~
- e) An ongoing resident record including progression toward and regression from established resident goals shall be maintained. (B-~~G~~)

- 1) The progress record shall indicate significant changes in the

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## Section 330.1710(e)(1) (continued)

- resident's condition. Any significant change shall be recorded upon occurrence by the staff person observing the change. (B-~~G~~)
- Recommendations and findings of direct service consultants, such as providers of social, dental, dietary or rehabilitation services, shall be included in the resident's progress record when the recommendations pertain to an individual resident. ~~(G)~~

- f) A medication administration record shall be maintained which contains the date and time each medication is taken, name of drug, dosage, and by whom recorded. A medication administration record is not required for residents who have been approved by their physician to be fully responsible for their own medications under Section 330.1510(d)(2). ~~(G)~~

- g) Treatment records shall be maintained recording all resident care procedures ordered by each resident's attending physician. Physician ordered procedures which shall be recorded include, but are not limited to, the prevention of decubitus ulcers, weight monitoring to determine a resident's weight loss or gain, blood pressure monitoring, and fluid intake and output. ~~(G)~~

- h) The facility shall have the option of using universal progress notes in the medical records.

- i) Each facility shall have a policy regarding the retirement and destruction of medical records. This policy shall specify the time frame for retiring a resident's medical record, and the method to be used for record destruction at the end of the record retention period. The facility's record retirement policy shall not conflict with the record retention requirements contained in Section 330.1740 of this Part. ~~(G)~~

- j) Discharge information shall be completed within ~~forty-eight~~ 48 hours after the resident leaves the facility. The resident care staff shall record the date, time, condition of the resident, to whom released, and the resident's planned destination (home, another facility, undertaker). This information may be entered onto the admission record form. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.1720 Content of Medical Records

## Section 330.1720 (continued)

a) No later than the time of admission, the facility shall enter the following information onto the identification sheet or admission sheet for each resident:

- 1) Name, sex, date of birth and Social Security Number,
  - 2) Marital Status, and the name of spouse (if there is one),
  - 3) Whether the resident has been previously admitted to the facility,
  - 4) Date of current admission to the facility,
  - 5) State or country of birth,
  - 6) Home address,
  - 7) Religious affiliation (if any),
  - 8) Name, address and telephone number of any referral agency, state hospital, zone center or hospital from which the resident has been transferred (if applicable),
  - 9) Name and telephone number of the resident's personal physician,
  - 10) Name and telephone number of the resident's next of kin or responsible relative,
  - 11) Race and origin,
  - 12) Most recent occupation,
  - 13) Whether the resident or ~~his/her~~ their spouse is a veteran,
  - 14) Father's name and mother's maiden name,
  - 15) Name, address and telephone number of the resident's dentist, and
  - 16) The diagnosis applicable at the time of admission.
- b) At the time of admission, the facility shall obtain a history of prescription and non-prescription medications taken by the resident during the ~~thirty~~ 30 days prior to admission to the facility (if available).

c) In addition to the information that is specified above, each resident's medical record shall contain the following:

- 1) Medical history and physical examination form that includes conditions for which medications have been prescribed, physician findings, all known diagnoses and restoration potential. This shall describe those known conditions that the medical and resident care staff should be apprised of regarding the resident. Examples of diagnoses and conditions that are to be included are allergies, epilepsy, diabetes and asthma. ~~(C)~~
- 2) A physician's order sheet that includes orders for all treatments, diet, activities and special procedures or orders required for the safety and well-being of the resident. The physician's order sheet shall also include a record of the medications prescribed for the resident by the physician, and a statement that the resident is capable of self-administering these medications. ~~(C)~~
- 3) An ongoing record of notations describing significant observations or developments regarding each resident's condition and response to treatments and programs.
- A) Consultants who provide direct care or treatment to residents shall make notations at the time of each visit with a resident. ~~(C)~~
- B) Significant observations or developments regarding resident responses to activity programs, social services, dietary services and work programs shall be recorded as they are noted. If no significant observations or developments are noted for three months, an entry shall be made in the record of that fact. ~~(C)~~
- 4) Documentation of visits to the resident by a physician and to the physician's office by the resident. ~~(C)~~ The physician shall record, or dictate and sign, the results of such visits, such as changes in medication, observations and recommendations made by the physician during the visits, in the record.
- 5) The results of the physical examination conducted pursuant to Section 330.1110(d) of this Part. ~~(C)~~
- 6) Upon admission from a hospital or state facility, a hospital summary sheet or transfer form that includes the hospital



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## Section 330.1720(c)(6) (continued)

diagnosis and treatment, and a discharge summary. This transfer information, which may be included in the transfer agreement, shall be signed by the physician who attended the resident while in the hospital.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1730 Records Pertaining to Residents' Property

a) The facility shall maintain a record of any resident's belongings, including money, valuables and personal property, accepted by the facility for safekeeping. This record shall be initiated at the time of admission and shall be updated on an ongoing basis and made part of the resident's record. ~~(C)~~

b) When purchases are made for a resident from the resident's personal monies, receipts shall be obtained and retained that verify the date, amount, and items purchased. ~~(C)~~

c) A separate bookkeeping system shall be maintained by the facility which accounts for all transactions affecting each resident's account. Each individual resident, or the individual resident's representative, shall have access to the record of that individual resident's account. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1740 Retention and Transfer of Resident Records

a) Records of discharged residents shall be placed in an inactive file and retained as follows:

1) Records for any resident who is discharged prior to being ~~eighteen~~ ~~(18)~~ years old shall be retained at least until the resident reaches the age of ~~twenty-three~~ ~~(23)~~. ~~(C)~~

2) Records of residents who are over ~~eighteen~~ ~~(18)~~ years old at the time of discharge shall be retained for a minimum of five ~~(5)~~ years. ~~(C)~~

b) After the death of a resident, the resident's record shall be retained for a minimum of five ~~(5)~~ years. ~~(C)~~

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## Section 330.1740 (continued)

c) It is suggested that the administrator check with legal counsel regarding the advisability of retaining resident records for a longer period of time, and the procedures to be followed in the event the facility ceases operation.

d) When a resident is transferred to another facility, the transferring facility shall send with the resident a reason for transfer, summary of treatment and results, laboratory findings, and orders for the immediate care of the resident. This information may be presented in a transfer form or an abstract of the resident's medical record. ~~(B)~~ ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1750 Other Resident Record Requirements

This Section contains references to rules located in other Subparts that pertain to the content and maintenance of medical records.

~~a) The resident's record shall include facts involved if the resident's discharge occurs despite medical advice to the contrary, as required by Section 330.620(f) of this part.~~

a) ~~b)~~ The resident's record shall include information regarding the physician's notification and response regarding any serious accident or injury, or significant change in condition, as required by Section 330.1110(e) of this part.

b) ~~c)~~ The resident's record shall identify the reasons for any order and use of safety devices or restraints, as required by Section 330.1140(d) of this part.

c) ~~d)~~ The resident's record shall contain the physician's permission, with contraindications noted, for participation in the activity program, as required by Section 330.1310(d) ~~(e)~~ of this part.

d) ~~e)~~ The records of residents participating in work programs shall document the appropriateness of the program for the resident and the resident's response to the program, as described in Section 330.1320(d) of this part.

e) Documentation of the review of the medication regimen by the attending physician shall be entered in the resident's record, as required by Section 330.1510(c)(2).

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## Section 330.1750 (continued)

- f) The resident's record shall include the physician's diet order and observations of the resident's response to the diet, as described in Section 330.1940 of this Part.
- g) The resident's record shall contain any physician determinations that limit the resident's access to the resident's personal property, as described in Section 330.4210(b) of this Part.
- h) The facility shall comply with Section 330.4210(g) of this Part, which requires that any medical inadvisability regarding married residents residing in the same room be documented in the resident's record.
- i) The facility shall permit each resident, resident's parent, guardian or representative to inspect and copy the resident's medical records as provided by Section 330.4220(g) of this Part.
- j) Any resident transfer or discharge mandated by the physical safety of other residents shall be documented in the resident's medical record as required by Sections 330.4300(d) and (g) of this Part.
- k) Summaries of discussions and explanations of any planned involuntary transfers or discharges shall be included in the medical record of the resident that is to be involuntarily transferred or discharged, as described in Section 330.4300(j) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1760 Retention of Facility Records

The facility shall retain the records referenced in this Section for a minimum of three years. ~~(G)~~ It is suggested that the administrator check with legal counsel regarding the advisability of retaining records for a longer period of time, and the procedures to be followed in the event the facility ceases operation. The records for which this requirement applies are as follows:

- a) The annual financial statement described in Section 330.210 of this Part.
- b) The minutes of resident advisory council meetings required by Section 330.740(j) of this Part.

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## Section 330.1760 (continued)

- c) The records of in-service training required by Section 330.760(b)(2) of this Part.
- d) Copies of reports of serious incidents or accidents involving residents required by Section 330.780 of this Part.
- e) The reports of findings and recommendations from consultants required in Section 330.1770(a) of this Part.
- f) ~~(g)~~ Copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation as required by Section 330.1770(d) of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1770 Other Facility Record Requirements

- a) The facility shall maintain a file of reports of findings and recommendations from consultants. Each report shall be dated and indicate each specific date and time the consultant was in the facility. ~~(G)~~
- b) The facility shall complete the Illinois Department of Public Health Annual Long Term Care (LTC) Facility Survey. ~~(G)~~
- c) The facility shall maintain a permanent chronological resident registry showing date of admission, name of resident and date of discharge or death. ~~(G)~~
- d) The facility shall make available to the Department upon request copies of the quarterly reports for all employees that are filed for Social Security and Unemployment Compensation. ~~(G)~~
- e) Rules located in other Sections of this Part that pertain to the content and maintenance of facility records are as follows:
- 1) The facility shall file an annual financial statement as described in Section 330.210 of this Part.
  - 2) Records and daily time schedules shall be kept on each employee as set forth in Section 330.760(a) and (b) of this Part.
  - 3) Menu and food purchase records shall be maintained as set forth in Section 330.1980(d) and (f) of this Part.



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## Section 330.1770(e) (continued)

- 5) The facility shall maintain a file of all reports of serious incidents or accidents involving residents as required by Section 330.780 of this Part.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART I: FOOD SERVICE

## Section 330.1910 Director of Food Services

- a) Each facility shall have a full-time person, suited by training and experience, who has been designated by the administrator to be responsible for the total food service operation of the facility. This person shall be on duty a minimum of ~~forty~~ 40 hours each week. (B-~~C~~)
- b) The head cook may be designated to fill this position as long as it does not interfere with the responsibilities of either position. (B-~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1920 Dietary Staff in Addition to Director of Food Services

There shall be a sufficient number of food service personnel employed and on duty to meet the dietary needs of all persons eating meals in the facility. Their working hours shall be scheduled to meet the total dietary needs of the residents. All dietary employees' time schedules and work assignments shall be posted in the kitchen. Dietary duties and job procedures shall be available in the dietary department for employees knowledge and use. (B-~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1930 Hygiene of Dietary Staff

Food Service personnel shall be in good health, shall practice hygienic food handling techniques, and good personal grooming. (B-~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.1940 Diet Orders

- a) Physicians shall write a diet order, in the medical record, for residents indicating whether the resident is to have a general or a therapeutic diet and the diet shall be served as ordered. A diet order for each resident shall be sent in writing to the food service department for each new admission and for every subsequent change in diet for that resident ordered by his physician. (C-~~G~~)
- b) A diet order for each resident shall be sent in writing to the food service department. The diet order shall include, but is not limited to, the following information: name of resident, room ~~and diet~~ and bed number, type of diet, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department (see Section 330.1960 for ordering therapeutic diets). (B)
- c) The resident shall be observed to determine acceptance of the diet and these observations shall be recorded in his record. (B-~~C~~)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1950 Adequacy of Diet and Meal Pattern

- a) The daily food allowance for each resident shall meet the basic food pattern for a general diet for an adult following the recommendations of the Food and Nutrition Board, National Research Council, and shall include: (A, B)
- b) MILK AND MILK PRODUCTS: Two ~~(2)~~ or more eight ~~(8)~~ ounce servings of Grade A whole or low fat pasteurized milk where milk is used for fluid consumption (see Section 330.2000). Cheese and ice cream may be used to replace part of the milk. The amount of either needed to replace a given amount of milk is figured on the basis of calcium content. The equivalents are as follows:
- 1) One ~~(1)~~ inch cube of cheddar type cheese equals one-half ~~(1/2)~~ cup milk;
  - 2) Two ~~(2)~~ cups cottage cheese equals one-half ~~(1/2)~~ cup milk;
  - 3) One ~~(1)~~ cup ice cream equals one-half ~~(1/2)~~ cup milk.
- NOTE: If cheese is used as a serving of milk it may not be also counted as a serving of protein in the Meat Group.
- c) MEAT GROUP: Two ~~(2)~~ or more servings of protein food of good

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## Section 330.1950(c) (continued)

quality. The following are examples of one ~~(1)~~ serving:

- 1) Three ~~(3)~~ ounces (excluding bone and fat) of any cooked meat such as whole or ground beef, veal, pork or lamb; poultry; organ meats such as liver, heart, kidney; prepared luncheon meats.
- 2) Three ~~(3)~~ ounces cooked fish or shell fish or one-half ~~(1/2)~~ cup canned fish.
- 3) Three ~~(3)~~ ounces of natural or processed cheese or three-fourths ~~(3/4)~~ cup cottage cheese.
- 4) Three ~~(3)~~ eggs (minimum weight 21 ounces per dozen).

Note: If one egg is served for breakfast, a protein food of good quality may be reduced from six ~~(6)~~ to five ~~(5)~~ ounces for the remaining meals. If two ~~(2)~~ eggs are served for breakfast, a minimum of two ~~(2)~~ ounces of protein of good quality shall be served at each of the remaining meals.

- 5) One ~~(1)~~ cup cooked dried peas or beans or six ~~(6)~~ tablespoons of peanut butter, not more than twice a week and provided eggs, milk or lean meat are served at the same meal.
- 6) Combinations of all above examples are acceptable, provided the Minimum Standard of six ~~(6)~~ ounces of protein food of good quality is served daily and provided the combinations do not conflict with eye appeal or palatability.

d) VEGETABLE AND FRUIT GROUP: Four or more one-half ~~(1/2)~~ cup servings of fruit ~~and/or~~ or vegetables. This shall include the following:

- 1)
  - A) One ~~(1)~~ serving of a good source of Vitamin C (grapefruit, grapefruit juice, orange, orange juice, cantaloupe, raw strawberries, broccoli, brussel sprouts, green pepper, sweet red pepper) OR
  - B) Two ~~(2)~~ servings, one ~~(1)~~ cup, of a fair source of Vitamin C (raw cabbage, collards, kale, kohlrabi, mustard greens, potatoes, spinach, tomatoes, tomato juice, turnip greens.)
- 2) One ~~(1)~~ serving of a good source of Vitamin A at least three

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~~(3)~~ times weekly (apricots, broccoli, cantaloupe, carrots, chard, collards, kale, persimmon, pumpkin, spinach, sweet potato, turnip greens and other dark green leaves, winter squash).

- 3) Other Fruits and Vegetables including Potatoes.
- 4) To insure variety, any vegetable or fruit repeated for the day shall not be counted as one of the four ~~(4)~~ servings required in this group.
- e) BREAD AND CEREAL GROUP: Four ~~(4)~~ or more servings of whole grain, enriched or restored. One ~~(1)~~ serving. One-half ~~(1/2)~~ cup cooked cereal or three-fourths ~~(3/4)~~ cup dry cereal equals one ~~(1)~~ serving.
- f) BUTTER OR MARGARINE: Two ~~(2)~~ tablespoons or more to be used as a spread and in cooking.
- g) OTHER FOODS: Serve other foods as necessary to round out meals, satisfy individual appetites, improve flavor, and meet the individual's nutritional and caloric needs. Snacks may also be used for this purpose.

h) Meal Pattern: Foods for the day shall be planned to provide a variety of foods, variety in texture and good color balance to give "eye appeal" to the meal. The following meal patterns shall be used.

## 1) Three Meals A Day Plan

- A) Breakfast: Fruit or Juice, Cereal, Meat (optional, but three-four times per week preferable), Bread, Butter or Margarine, Milk, and Choice of Additional Beverage.
- B) Main Meal (May be served noon or evening): Soup or Juice (optional), Entree (quality protein), Potato or Potato Substitute, Vegetable ~~and/or~~ or Salad, Dessert (preferably fruit unless fruit is served as a salad or will be served at other meal (lunch or supper))--~~1~~ Bread, Butter or Margarine, and Choice of Beverage.
- C) Lunch or Supper: Soup or Juice (optional), Entree (quality protein), Potato or Potato Substitute (optional if served at main meal), Vegetable ~~and/or~~ or Salad, Dessert, Bread, Butter or Margarine, Milk, and Choice of Additional Beverage.



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## Section 330.1950(h) (continued)

## 2) Four Meals A Day Plan

- A) Breakfast (7:00 or 7:30 A.M.): Juice, Cereal, Toast or Roll, Butter or Margarine, Milk, and Choice of Additional Beverage
- B) Brunch (10:00 or 10:30 A.M.): Fruit or Juice; Main Dish (quality protein); Bread, Rolls or Special Breads (such as French toast, pancakes); Butter or Margarine; and Choice of Beverage.
- C) Full Dinner (4:00 or 4:30 P.M.): Appetizer or Soup, Protein Entree, Potato or Potato Substitute, Vegetable, Salad, Dessert, Bread or Roll, Butter or Margarine, Milk, and Choice of Additional Beverage.
- D) Snack (7:00 or 7:30 P.M.): Sandwich (Meat Group filling), Light Dessert, and Milk or Juice.

## 3) Five Meals A Day Plan

- A) Continental Breakfast (7:00 or 7:30 A.M.): Fruit Juice, Toast or Roll, Butter or Margarine, Milk, and Choice of Additional Beverage.
- B) Brunch (10:00 or 10:30 A.M.): Fruit or Juice, Cereal, Eggs ~~and/or~~ or Meat Dish, Bread or Muffin or Special Toast, Butter or Margarine, and Beverage.
- C) Snack (1:00 or 1:30 P.M.): Soup with Crackers; Small Sandwich with Meat Group filling, or cheese, or Peanut Butter and Crackers; and Milk or Beverage.
- D) Dinner (4:00 or 4:30 P.M.): Meat, Fish or Poultry; Potato or Potato Substitute; Vegetable; Salad; Bread or Roll; Butter or Margarine; Dessert; Milk; and Choice of Additional Beverage.
- E) Snack (7:00 or 7:30 P.M.): Small Sandwich with Meat Group filling, Fruit Juice or Milk, and Dessert (such as ice cream, cookies, jello, pudding, custard, or fruit).

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.1960 Therapeutic Diets

- a) The diet order (see Section 330.1940(a)) shall include, but is not limited to, the following information: name of resident, room ~~and/or~~ and bed number, type of diet, date diet order is sent to dietary, name of physician ordering the diet, and the signature of the person transmitting the order to the food service department. ~~(C)~~
- b) Medically prescribed diets shall be recorded in the resident's medical record and served as ordered. The resident shall be observed to determine acceptance of the diet and these observations shall be recorded in his record. ~~(B-G)~~
- c) The kinds and variations of these prescribed therapeutic diets shall be available in the kitchen. If separate menus are not planned for each specific diet, diet information for each specific type shall be posted in the kitchen. ~~(G)~~
- d) All oral therapeutic diets, with the exception of liquid and medical soft diets, shall be reviewed at least every three months. Liquid diets shall be reviewed every ~~forty-eight~~ ~~(48)~~ hours; medical soft diets shall be reviewed every three weeks. This review may be done by nursing personnel with recommendations to the attending physician. ~~(G)~~
- e) If the facility accepts or retains individuals in need of medically prescribed diets, the diets shall be medically prescribed. Menus for such diets shall be planned by a dietitian or nutritionist. The facility shall provide the supervision for preparing and serving the special diets, obtaining consultation as needed from a dietitian or nutritionist. ~~(G)~~
- f) The facility shall have available, and in use, two ~~(2)~~ or more copies of a current diet manual approved by the Department. One copy shall be located in the kitchen for use by dietary personnel; other copies shall be located in an area where resident's medical records are kept. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.1970 Scheduling of Meals

- a) A minimum of three ~~(3)~~ meals or their equivalent shall be served daily at regular times with no more than a ~~fourteen~~ ~~(14)~~ hour span between a substantial evening meal and breakfast. The ~~fourteen~~

Section 330.1970(a) (continued)

~~(14)~~ hour span shall not apply to facilities using the "four or five meal-a-day" plan, provided the evening meal is substantial and includes, but is not limited to, a good quality protein, bread or bread substitute, a dessert and a nourishing beverage. (B-~~G~~)

- b) Between meals ~~and/or~~ or bedtime snacks of nourishing quality shall be offered. (B)
  - c) If a resident refuses food served, reasonable and nutritionally appropriate substitutes shall be served. (B-~~G~~)
- (Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

Section 330.1980 Menu Planning

- a) Menus, including menus for "sack" lunches and between meal ~~and/or~~ or bedtime snacks, shall be planned at least one ~~(1)~~ week in advance. Food sufficient to meet the nutritional needs of all the residents shall be prepared for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value and shall be recorded on the original menu, or in a notebook marked "Substitutions" that is maintained in the kitchen. If a notebook is used to document substitutions, it shall include the date of the substitution ~~(B)~~; the meal at which the substitution ~~(B)~~ was ~~made~~ made; the menu as originally written; and the menu as actually served. (B-~~G~~)

- b) The menu for the current week shall be dated and posted. Upon the request of the Department, sample menus shall be submitted for evaluation. ~~(G)~~

- c) Menus shall be different for the same day of consecutive weeks. ~~(G)~~

- d) All menus as actually served shall be kept on file for not less than ~~(14)~~ ~~(30)~~ days. ~~(G)~~

- e) Supplies of staple food for a minimum of a one ~~(1)~~ week period and of perishable foods for a minimum of a two ~~(2)~~ day period shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu. ~~(G)~~

- f) Records of all food purchased shall be kept on file for not less than

Section 330.1980(f) (continued)

~~(30)~~ ~~(30)~~ days. ~~(G)~~

(Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

Section 330.1990 Food Preparation and Service

- a) Foods shall be prepared by appropriate methods that will conserve their nutritive value, enhance their flavor and appearance. They shall be prepared according to standardized recipes and a file of such recipes shall be available for the cook's use. ~~(G)~~
  - b) Foods shall be attractively served at the proper temperatures and in a form to meet individual needs. (B-~~G~~)
  - c) All residents shall be served in a dining room or multipurpose room except for an individual with a temporary illness or for other valid reasons. ~~(G)~~
- (Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

Section 330.2000 Food Handling Sanitation

Every facility shall comply with the ~~latest~~ edition of the ~~Department's~~ rules entitled "Food Service Sanitation" ~~rules~~ (77 Ill. Adm. Code 700).

(Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

Section 330.2010 Kitchen Equipment, Utensils, and Supplies

The kitchen or dietary area shall be adequate to meet the food service needs. It shall have adequate equipment, utensils, and supplies to properly store, prepare, and serve the required number of meals in accordance with the ~~latest~~ ~~edition of this~~ Department's rules entitled "Food Service Sanitation" ~~rules~~ (77 Ill. Adm. Code 700). This shall include, but is not limited to, the following: (B-~~G~~)

- a) Each kitchen and floor pantry, or subkitchen, in each building shall be equipped with facilities to: maintain required food temperatures during storage, preparation and service; provide protection of cooking equipment and utensils from contamination; and prepare the planned meals. New or replacement equipment shall be of satisfactory institutional type based on generally accepted standards. ~~(G)~~



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## Section 330.2010 (continued)

- b) There shall be an adequate supply of food preparation equipment such as pots, pans, spoons, knives, and mixers, ~~etc.~~ of the proper type to satisfactorily prepare the meals. ~~(C)~~
- c) There shall be proper equipment to maintain food temperatures during service to residents. This equipment may be in the form of heated food carts, insulated food containers, or suitable equivalent. ~~(B)~~
- d) Each facility shall provide an adequate number of dishes, glassware, and silverware of a satisfactory type to serve all the residents in the facility at each meal. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

## Section 330.2210 Maintenance

- a) Every facility shall have an effective written plan for maintenance, including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: ~~(B)~~
- 1) Maintain the building in good repair and free of the following: cracks in floors, walls, or ceilings; peeling wallpaper or paint; warped or loose boards; warped, broken, loose, or cracked floor coverings, such as tile or linoleum; loose handrails or railings; loose or broken window panes, and any other similar hazards. ~~(B)~~
- 2) Maintain all electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems in safe, clean and functioning condition. This shall include regular inspections of these systems. ~~(A, B)~~
- 3) Maintain all electrical cords and appliances in a safe and functioning condition. ~~(B)~~
- 4) Maintain the interior and exterior finishes of the building as needed to keep it attractive, clean and safe. ~~(Painting, and washing etc.)~~
- 5) Maintain all furniture and furnishings in a clean, attractive, and safely repaired condition. ~~(C)~~

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## Section 330.2210(a) (continued)

- 6) Maintain the grounds and other buildings on the grounds in a safe, sanitary, and presentable condition. ~~(B)~~
- 7) Maintain the grounds free from refuse, litter, insect and rodent breeding areas. ~~(C)~~
- 8) The building and grounds shall be kept free of any possible infestations of insects and rodents by eliminating sites of breeding and harborage inside and outside the building; eliminating sites of entry into the building with screens of not less than 16 mesh to the inch and repair of any breaks in construction. ~~(B)~~

- b) 1) Maintain all plumbing fixtures and piping in good repair and properly functioning.
- 2) Protect the potable water supply from contamination by providing and properly installing adequate, backflow protection devices or providing adequate air gaps on all fixtures that may be subject to backflow or back siphonage.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.2220 Housekeeping

- a) Every facility shall have an effective plan for housekeeping including sufficient staff, appropriate equipment and adequate supplies. Each facility shall: ~~(B)~~
- 1) Keep the building in a clean, safe, and orderly condition. This includes all rooms, corridors, attics, basements, and storage areas. ~~(B)~~
- 2) Keep floors clean, as nonslip as possible, and free from tripping hazards including throw or scatter rugs. ~~(C)~~
- 3) Control odors within the housekeeping staff's area of responsibility by effective cleaning procedures and by the proper use of ventilation systems. Deodorants shall not be used to cover up persistent odors caused by unsanitary conditions or poor housekeeping practices. ~~(C)~~
- b) Attics, basements, stairways, and similar areas shall be kept free of

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## Section 330.2220(b) (continued)

- c) Bathrooms, shower stalls, ~~and/or~~ and lavatories shall not be used for laundering, janitorial, or storage purposes. ~~(C)~~
- d) All cleaning compounds, insecticides, and all other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms. ~~(B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.2230 Laundry Services

- a) Every facility shall have an effective means of supplying an adequate amount of clean linen for operation, either thru an in-house laundry or a contract with an outside service. An adequate supply of clean linen shall be defined as the three sets of sheets, draw sheets, and pillow cases ~~etc.~~ required to provide for the residents needs. Additional changes of linen may be required in consideration of laundering and transporting soiled linens. ~~(C)~~ If an in-house laundry service is provided, then the following conditions shall exist:

- 1) The laundry area shall be maintained and operated in a clean, safe and sanitary manner. ~~(C)~~
- 2) Written operating procedures shall be developed, posted and implemented which provide for the handling, transport and storage of clean and soiled linens. ~~(C)~~
- 3) Laundry personnel must be in good health and practice good personal grooming. Employees must thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean and after smoking, eating, drinking, using the toilet and handling soiled linens. ~~(C)~~
- 4) Clean linen shall be protected from contamination during handling, transport and storage. ~~(C)~~
- 5) Soiled linen shall be handled, transported and stored in a manner that protects facility residents and personnel. ~~(C)~~

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## Section 330.2230(a) (continued)

- 6) The laundry and its accessory storage and handling areas shall not be used as a storage area for supplies not directly connected with the operation of the laundry. ~~(C)~~
- b) If an outside laundry service is used, it shall provide for protection of clean linens during transport back to the facility. ~~(C)~~
- c) If the facility provides laundry service for residents personal clothing, it must be handled, transported and stored in a manner that will not allow contamination of clean linen or allow contamination by soiled linen. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

## Section 330.2410 Furnishings

- a)
  - 1) Each resident shall be provided with a bed which is at least ~~thirty-six (36)~~ inches wide, have a headboard, be of sturdy construction and in good repair. Cots, rollaways, double, or folding beds shall not be used. ~~(C)~~
  - 2) Double beds may be used for married couples, if they desire this arrangement, if approved in writing by the Department. ~~Similarly, the requirement for a headboard and footboard may be waived. (C)~~
- b) Each bed shall be provided with satisfactory type springs in good repair and a clean, firm, comfortable mattress of appropriate size for the bed. ~~(C)~~
- c) Each bedroom shall have window shades, or equivalent, in good repair. ~~(C)~~
- d) A satisfactory reading lamp, or equivalent, shall be provided for each bed. ~~(C)~~
- e) Each bed shall be provided with a minimum of one ~~(4)~~ clean, comfortable pillow. ~~(C)~~
- f) Each bedroom shall be provided with a mirror, unless there is a



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## Section 330.2410(f) (continued)

- mirror in a bathroom opening into this bedroom. Each lavatory shall be provided with a mirror. ~~(C)~~
- g) Each living room for residents use shall be provided with an adequate number of reading lamps, tables, and chairs or settees. These furnishings shall be well constructed and of satisfactory design for the residents. ~~(C)~~
- h) Dining room furnishings shall be provided for each resident which are well constructed, comfortable, in good repair, and of satisfactory design for the residents. There shall be a sufficient number of tables, of a type that can be used by wheelchair residents, to accommodate all such residents in the facility. ~~(C)~~
- i) Office spaces, and other areas shall be satisfactorily furnished with desks, chairs, lamps, cabinets, benches, work tables, ~~and of~~ and other furnishings essential to the proper use of the area. ~~(C)~~
- j) For each bed there shall be furnished:
- 1) A minimum of two ~~(2)~~ adequately sized dresser drawers. ~~(C)~~
  - 2) A comfortable chair. ~~(C)~~
  - 3) An individual towel rack. ~~(C)~~
  - 4) A satisfactory reading light over, or at the side of, the bed. ~~(C)~~
  - 5) Adequate closet, locker, or wardrobe space for hanging clothing within the room. ~~(C)~~
  - 6) A satisfactory bedside cabinet. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.2420 Equipment and Supplies

- a) The facility shall have a supply of thermometers, emesis basins, ice bags, hot water bottles or equivalent, bedpans, urinals, and sets of enema equipment sufficient to meet the needs of its residents. ~~(B)~~
- b) There shall be at least one ~~(1)~~ bedside screen available in the

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## Section 330.2420(b) (continued)

- facility for each ~~fifty~~ ~~(50)~~ beds or major fraction thereof in multiple bedrooms to provide residents' privacy when needed. ~~(C)~~
- c) There shall be a sufficient supply of linen and bedding in good condition to provide proper care and comfort to the residents. It shall include, but is not limited, to the following: ~~(B)~~
- 1) Sheets, four ~~(4)~~ per bed.
  - 2) Pillow cases, three ~~(3)~~ per bed.
  - 3) Bed blankets, two ~~(2)~~ per bed.
  - 4) Bedspreads, two ~~(2)~~ per bed.
  - 5) Washcloths and hand towels, as needed.
  - 6) Bath towels, three ~~(3)~~ per bed.
  - 7) Patient hospital gowns as needed.
  - 8) Pillows, one ~~(1)~~ per bed plus a ~~10%~~ ten percent reserve.
- d) There shall be a first-aid kit or emergency box in every facility. This shall contain bandages, sterile gauze dressings, bandage scissors, tape, sling, burn ointment, and any other equipment deemed necessary. ~~(B)~~
- e) Activity program supplies shall be provided to maintain an ongoing program to meet the varied interests and needs of the residents. These shall include, but are not limited to, games, crafts supplies, current magazines, books, radio, television, and record player. A piano or organ is recommended as an important adjunct to the activity program equipment. ~~(C)~~
- f) Dishes and kitchen equipment shall be provided as set forth in Section 330.2000. ~~(C)~~
- g) Cleaning equipment and supplies shall be provided as set forth in Sections 330.2210 through 330.2220. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

## Section 330.2610 Codes

Water supply and sewage disposal and plumbing systems shall comply with all applicable State and local codes and ordinances. (B-~~7~~-G-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.2620 Water Supply

a) Each facility shall be served by water from a municipal public water supply when available. (B-~~7~~-G-)

b) When a municipal public water supply is not available, the water supply shall comply with the Department's rules entitled ~~for~~ "Drinking Water Systems" (77 Ill. Adm. Code 900), ~~as amended~~. (B-~~7~~-G-)

c) ~~1)~~ If water is supplied by a well that is not part of a municipal system, the well shall be constructed and maintained in accordance with the "Illinois Water Well Construction Code" (77 Ill. Adm. Code 920) and "Illinois Water Well Pump Installation Code" (77 Ill. Adm. Code 925).

d) ~~2)~~ Each facility shall have a written agreement with a water company, dairy, or other water purveyor to provide an emergency supply of potable water for drinking and culinary purposes.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.2630 Sewage Disposal

a) All sewage and liquid wastes shall be discharged into a public sewage system when available. (B-~~7~~-G-)

b) When a public sewage system is not available, sewage and liquid wastes shall be collected, treated, and disposed of in a private sewage disposal system. The design, construction, maintenance, and operation of the system shall comply with the "Private Sewage Disposal Code" (77 Ill. Adm. Code 905), as amended. (B-~~7~~-G-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

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## Section 330.2640 Plumbing

Each plumbing system shall comply with the Illinois Plumbing Code (77 Ill. Adm. Code 890) ~~and the rules promulgated thereunder~~ effective at the time of construction ~~and for~~ and approved acceptance by the Department. ~~(C-)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

## Section 330.2820 Applicability of These Standards

a) These standards shall apply to all new construction. This includes all new buildings; and all additions, and alterations to existing buildings.

b) Alterations that do not bring the building in compliance with the standards in this Subpart may be approved by the Department in licensed facilities if it can be demonstrated to the satisfaction of the Department that the alterations will provide equivalent facilities, or safety to the residents and will not increase bed capacity.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.2830 Submission of a Program Narrative

A written description of the program shall be submitted for review with or prior to submission of the preliminary drawings and outline specifications. Drawings will not be reviewed until the program is submitted.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.2840 New Constructions, Additions, Conversions, and Alterations

a) When construction is contemplated for new buildings, additions, conversions, or alterations to existing buildings, coming within the scope of these standards, preliminary drawings and outline specifications shall be submitted to the Department for review and approval prior to starting final working drawings and specifications. Such approval will be based upon compliance with Section 330.2850 of this Subpart. ~~(C-)~~



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## Section 330.2840 (continued)

## Section 330.2850(c) (continued)

- b) A review of preliminary drawings and outline specifications will be made only after the pre-application information forms have been submitted to the Department. (See Section 330.120(a).)
- c) The final working drawings and specifications for all trades shall be submitted to the Department for review and approval prior to releasing them to bidders. Such approval will be based upon compliance with Section 330.2850 of this Subpart.

- d) The Department shall be notified of the award of contracts. ~~(C)~~
- e) Any contract modifications which affect or change the function, design, or purpose of a facility shall be submitted to the Department for approval prior to authorizing the modifications. (B-~~C~~)
- f) The Department shall be notified when construction has been completed and prior to any area of the building being occupied by residents. (B-~~C~~)
- g) Minor alterations or remodeling changes which do not affect the structural integrity of the building, change functional operation, affect fire safety, add facilities over those for which the facility is licensed and classified, need not be submitted for approval. ~~(C)~~
- h) No system of water supply, sewerage, plumbing, garbage or refuse disposal shall be installed, nor any such existing system materially altered or extended until complete plans and specifications for the installation, alteration, or extension have been submitted to the Department, reviewed and approved. (B-~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.2850 Preparation and Submission of Drawings and Specifications

- a) The preparation and submission of drawings and specifications shall be executed by or be under the immediate supervision of an architect registered in the State of Illinois, unless this requirement is waived by the Department. ~~(C)~~
- b) All drawings and specifications shall identify clearly the facility as to its name, proposed level of services and location. ~~(C)~~
- c) All drawings and specifications shall contain the architect's name

and address. The first sheet of the drawings and the cover of the specifications shall have his Illinois registration seal and the date. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.2860 First Stage Drawings

- a) Development of the preliminary sketch plans shall indicate in detail the assignment of all spaces, including size of areas and rooms, and shall outline the fixed and movable equipment and furniture. ~~(C)~~
- b) The plans shall be drawn at a scale sufficiently large to clearly present the proposed design. ~~(C)~~
- c) The total floor area shall be computed and shown on the drawings. ~~(C)~~
- d) The drawings shall include:
- 1) A plan of each floor including the basement or ground floor.
  - 2) Roof plan. ~~(C)~~
  - 3) Elevations of all facades. ~~(C)~~
  - 4) A plot plan showing roads, parking areas, sidewalks, existing structures, location of easements, setbacks, utilities, manholes and inverts. ~~(C)~~
  - 5) Sections through the building. ~~(C)~~
  - 6) Existing work must be completely shown on submission for additions, conversions or alterations. ~~(C)~~
- e) Outline specifications shall provide a general description of the construction including interior finishes; acoustical material; its extent and type; extent of the floor covering, air conditioning, heating and ventilating systems, and their controls, general description of the electrical service; and the type of elevators. ~~(C)~~
- f) The following information shall be submitted on or with the preliminary drawings and outline specifications:

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## Section 330.2860(f) (continued)

- 1) Name of proposed facility. ~~(C)~~
  - 2) Address of proposed facility. ~~(C)~~
  - 3) Name of owner. ~~(C)~~
  - 4) Level ~~(C)~~ of care to be provided. ~~(C)~~
  - 5) Number of residents by floor, and total number. ~~(C)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.2870 Second Stage Drawings

All working drawings shall be well prepared so that clean and distinct prints may be obtained, accurately dimensioned, and include all necessary explanatory notes, schedules, and legends. Working drawings shall be complete and adequate for contract and construction purposes. Separate drawings shall be prepared for each of the following sections of work: Architectural, Structural, Mechanical, and Electrical. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.2880 Architectural Drawings

The architectural drawings shall include:

- a) Site plan showing all new topography, newly established levels and grades; existing structures on the site (if any); new buildings and structures; roadways; walks; and the extent of the areas to be seeded. All structures and improvements which are to be removed under the construction contract shall be shown. ~~(C)~~
- b) Plan of each floor and roof. ~~(C)~~
- c) Elevations of each facade. ~~(C)~~
- d) Sections through building. ~~(C)~~
- e) Required scale and full size details. ~~(C)~~
- f) Elevator and dumbwaiter details and dimensions, size of car platform, travel, pit and machine room. ~~(C)~~

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## Section 330.2880 (continued)

- g) Kitchen, laundry and clean and soiled utility room shall show location, size and required connections of all fixed and movable equipment.
  - h) Schedule of doors and finishes.
  - i) Location of all fixed equipment and major items of movable equipment. Equipment not in contract shall be so indicated.
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.2890 Structural Drawings

a) The structural Drawings shall include:

- 1) Plans of foundations, floors, roofs, and all intermediate levels shall show a complete design with sizes, sections, and the relative location of the various members. Schedule of beams, girders, and columns. ~~(C)~~
- 2) Floor levels, column centers, and offsets shall be dimensioned. ~~(C)~~
- 3) Special openings and pipe sleeves shall be dimensioned or otherwise noted for easy reference. ~~(C)~~
- 4) Details of all special connections, assemblies, and expansion joints shall be given. ~~(C)~~
- 5) Notes on design data shall include the name of the governing building code, values of allowable unit stresses, assumed live loads, wind loads, earthquake load, and soil bearing pressures. ~~(C)~~
- b) For special structures, a stress sheet shall be incorporated in the drawings showing:
  - 1) Outline of structure. ~~(C)~~
  - 2) All load assumptions used. ~~(C)~~
  - 3) Stresses and bending moments separately for each kind of loading. ~~(C)~~



## Section 330.2890(b) (continued)

- 4) Maximum stresses ~~and/or~~ and bending moment for which each member is designed.
- 5) Horizontal and vertical reactions at column bases.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3000 Mechanical Drawings

Mechanical drawings shall include:

- a) These drawings with specifications shall show the complete heating, steam piping, ventilation and air conditioning systems; plumbing, drainage and stand pipe systems; laundry and kitchen ventilation.
- b) Heating, steam piping, air conditioning and ventilation including:
  - 1) Radiators and steam heated equipment, such as sterilizers, warmers, and steam tables.
  - 2) Heating and steam mains and branches with pipe sizes.
  - 3) Diagram of heating and steam risers with pipe sizes.
  - 4) Sizes, types and heating surfaces of boilers; furnace with stokers and oil burners, if any.
  - 5) Pumps, tanks, boiler breeching, piping and boiler room accessories.
  - 6) Air conditioning systems with required equipment, water and refrigerant piping and ducts. ~~CG~~
  - 7) Supply and exhaust ventilating systems with necessary duct work and piping.
  - 8) Air quantities for all room supply and exhaust ventilating duct openings. ~~CG~~
- c) Plumbing, drainage, and stand pipe systems including:
  - 1) Size and elevation of street sewer, house sewer, house drains, street water main, and water service into the building.

## Section 330.3000(c) (continued)

- 2) Location and size of soil, waste, and vent stacks with connections to house drains, clean outs, fixtures, and equipment.
- 3) Size and location of hot, cold, and circulating mains, branches, and risers from the service entrance and tanks.
- 4) Riser diagram to show all plumbing stacks with vents, water risers, and fixture connections.
- 5) Gas, oxygen, and special connections.
- 6) Stand pipe and sprinkler systems.
- 7) Plumbing fixtures and fixtures which require water and drain connections.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3010 Electrical Drawings

Electrical drawings shall include:

- a) All electrically operated systems and equipment. ~~CG~~
- b) Electrical service entrance with service switches, service feeders to the public service feeders, and characteristics of the light and power current. Transformers and their connections shall be shown. ~~CG~~
- c) Plan and diagram showing main switchboard, power panels, light panels, and equipment. Feeder and conduit sizes shall be shown with schedule of feeder breakers or switches. ~~CG~~
- d) Light outlets, receptacles, switches, power outlets, and circuits. ~~CG~~
- e) Telephone layout showing service entrance, switchboard, strip boxes, outlets, and branch conduit as approved by the telephone company. Provide separate room and conduits for racks and automatic switching equipment as required by the telephone company. ~~CG~~
- f) Fire alarm system with stations, signal systems, detectors, control board, and wiring diagrams. ~~CG~~

## Section 330.3010 (continued)

- g) Emergency electrical system with outlets, transfer switch, source of supply, feeders, and circuits. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3020 Additions to Existing Structures

Procedures and requirements for working drawings and specifications shall be followed as set forth in Sections 330.2880 through 330.3030; and in addition, the following information shall be submitted:

- a) Type of activities within the existing building and distribution of existing beds, etc. ~~(C)~~
- b) Type of construction of existing building and number of stories. ~~(C)~~
- c) Plans and details showing attachment of new construction to the existing structure and mechanical systems. ~~(C)~~
- d) Exits including details and distances when related to the addition.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3030 Specifications

Specifications shall supplement the drawings to fully describe, except where fully indicated and described on the drawings, the materials, workmanship, the kind, sizes, capacities, finishes, and other characteristics of all materials, products, articles, and devices and shall include: ~~(C)~~

- a) Cover or title sheet.
- b) Index.
- c) Instructions to bidders.
- d) Bid form.
- e) Form of agreement.
- f) General conditions.

## Section 330.3030 (continued)

- g) Special conditions.
- h) Performance and payment bond forms.
- i) Sections describing materials and workmanship in detail for each class of work.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3040 Building Codes

- a) The design and construction of the facility shall meet the minimum requirements of ~~the latest revised edition and amendments of~~ the following Codes and Regulations except as modified within this Part ~~these standards~~: (A, B, ~~C~~)

- 1) National Fire Protection Association's National Fire Codes, including but not limited to:

- A) The Life Safety Code. (A, B, ~~C~~)
- B) The National Electric Code. (A, B, ~~C~~)

- 2) ~~The~~ Illinois Plumbing Code (77 Ill. Adm. Code 890), Department of Public Health. (A, B, ~~C~~)

- 3) Fire Prevention and Safety (41 Ill. Adm. Code 100), Office of the State Fire Marshal. (A, B, ~~C~~)

- 4) Illinois Accessibility Code ~~Standards Illustrated~~ (71 Ill. Adm. Code 400), Capital Development Board. (A, B, ~~C~~)

- 5) Food Service Sanitation (77 Ill. Adm. Code 750), Department of Public Health, ~~160 North LaSalle Street, Chicago, Illinois 60601~~. (A, B, ~~C~~)

- b) In addition to the Codes and Regulations listed in this Section ~~above~~, the design and construction of the facility shall meet the minimum requirements of all applicable local building codes and ordinances. (A, B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 330.3050 Site

## Every building shall:

- a) Be located on a reasonably flat or rolling, well drained site that is not subject to flooding; reasonably free from sources of excessive noise, noxious and hazardous smoke and fumes; not in a deteriorated, unpleasant, or potentially hazardous urban area; and not near uncontrolled sources of insect and rodent breeding. ~~(C)~~
- b) Be located so that the building or buildings can comply with any applicable local zoning ordinances, building restrictions ~~and/or~~ and fire safety requirements. The Department may have additional requirements if the proposed locations of the building or buildings on the site would result in a hazard to or be detrimental to the health, welfare, ~~and/or~~ or safety of the residents in the facility. ~~(C)~~
- c) Comply with all applicable zoning ordinances.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 330.3060 General Building Requirements ~~Building General~~

## Every building shall:

- a) Be structurally sound, in good repair, and attractive inside and outside. ~~(B)(C)~~
- b) Have a minimum of one ~~(1)~~ adequately sized elevator in all buildings of two ~~(2)~~ or more stories in height. Additional elevators as determined by the Department shall be provided based upon the population and condition of the residents. The basement shall be considered as one ~~(1)~~ story if it is used by residents. ~~(B)(C)~~
- c) Have stairways with a minimum head room of seven ~~(7)~~ feet, a minimum width of three ~~(3)~~ feet eight ~~(8)~~ inches on required exit stairs, when serving resident areas, and three ~~(3)~~ feet for all others. If handrails project more than three ~~(3)~~ and one-half ~~(1 1/2)~~ inches, the width shall be measured between the handrails. Have treads of not less than ~~(11)~~ inches, and risers of not more than seven ~~(7)~~ and one-half ~~(1 1/2)~~ inches. Stairways with triangular or winding treads or single risers are not acceptable. ~~(B)(C)~~

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## Section 330.3060 (continued)

- d) Have sturdy handrails on both sides of each stairway whether inside or outside of the building. Handrails shall be one ~~(1)~~ and one-half ~~(1 1/2)~~ inches in diameter at least and one ~~(1)~~ and one-half ~~(1 1/2)~~ inches clear of the wall. ~~(B)(C)~~
- e) Have a ceiling height of eight ~~(8)~~ feet or more throughout all rooms occupied or used by the residents. ~~(B)(C)~~
- f) Have main entrance and exit doors swinging outward with a minimum clear width of three ~~(3)~~ feet, eight ~~(8)~~ inches. Provide panic hardware and door closers. ~~(B)(C)~~
- g) Have each exterior door equipped with a signal that will alert personnel in the area if a resident leaves the building. An exterior door that is supervised during certain periods during the day or night may have a disconnect device for part time use. If there is constant ~~twenty-four (24)~~ hour a day supervision of the door, a signal is not required. ~~(B)(C)~~
- h) Have all doors and windows fit snugly and weathertight, yet will open and close easily. ~~(C)~~
- i) Have all outside doors, other than at required exits, and nonstationary windows equipped with tight fitting full length ~~sixteen (16)~~ mesh screens. Screen doors shall be equipped with self-closing devices. ~~(C)~~
- j) Have all floors free from cracks and finished so that they can be easily, properly, and efficiently cleaned. Floors in bath rooms, kitchens, and utility rooms shall be covered wall to wall with inlaid linoleum, terrazzo, ceramic tile, or an equivalent material. ~~(B)(C)~~
- k) Have all walls and ceilings of sound construction and covered with plaster or an equivalent, free from cracks, holes, or heavily textured surfaces. ~~(C)~~
- l) Be constructed and maintained so as to prevent the entrance and harborage of rats, mice, flies, and other insects. ~~(C)~~
- m) Be provided with sufficient and satisfactory artificial lighting wherever required throughout the building and grounds. ~~(C)~~
- n) All doorways used by residents shall be flush with the floor. ~~(C)~~

Section 330.3060 (continued)

o) Be served by reliable telephone service. (B-~~7~~-~~6~~-)

p) Provide a medicine cabinet and sink with hot and cold running water. (See Section 330.1530(a).) ~~(C)~~

q) Have no other business not related to health care conducted in the building that constitutes a hazard or annoyance to the residents. In any case, the business shall be in a segregated portion of the building and shall have a separate entrance. ~~(C)~~

(Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

Section 330.3070 Administration

Every building shall:

a) Provide sufficient administrative office space for clerical, financial, and managerial functions. ~~(C)~~

b) Provide satisfactory space which can be used for privacy in interviewing applicants ~~\_\_\_\_\_~~ and for discussion with relatives ~~\_\_\_\_\_~~ ~~etc.~~ ~~(C)~~

c) Provide satisfactory space or an office for the administrator. ~~(C)~~

(Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

Section 330.3080 Corridors

Every building shall meet the following requirements:

a) All corridors used by residents shall have a minimum unobstructed width of six ~~(6)~~ feet and lighted properly at night and all other times when necessary. If handrails project more than three ~~(3)~~ and one-half ~~(1 1/2)~~ inches, the width shall be measured between handrails. (B-~~7~~-~~6~~-)

b) Corridors used by residents shall be enclosed and have a minimum ceiling height of seven ~~(7)~~ feet eight ~~(8)~~ inches. (B-~~7~~-~~6~~-)

c) Corridors and passages used by residents shall have sturdy handrails one ~~(1)~~ and one-half ~~(1 1/2)~~ inches in diameter and be at least one ~~(1)~~ and one-half ~~(1 1/2)~~ inches clear of the wall. (B-~~7~~-~~6~~-)

Section 330.3080 (continued)

d) Enclosed corridors shall be properly heated. ~~(C)~~

e) Corridors shall not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate rooms such as bathrooms, toilet rooms, or janitor's closets which open directly on corridors. ~~(C)~~

f) For exit corridors, see Section 330.3380.

(Source: Amended at 13 Ill. Reg. ~~\_\_\_\_\_~~, effective ~~\_\_\_\_\_~~)

Section 330.3090 Bath and Toilet Rooms

Every building shall meet the following requirements:

a) Provide a minimum of one ~~(1)~~ water closet, one ~~(1)~~ lavatory, and one ~~(1)~~ bathtub or shower for each sex on each floor occupied by residents. ~~(C)~~

b) Provide fixtures in the following minimum numbers. The maximum capacity of resident beds on each floor shall be used in determining the number of fixtures required, irrespective of the fact that some of the beds may not be occupied. ~~(C)~~

c) One ~~(1)~~ lavatory and one ~~(1)~~ water closet for each ten ~~(10)~~ resident beds on each floor. ~~(C)~~

d) One ~~(1)~~ bathtub or shower for each ~~fifteen~~ ~~(15)~~ resident beds on each floor. ~~(C)~~

e) All bath and toilet rooms shall be easily accessible, conveniently located, and well lighted. They shall be ventilated to the outside atmosphere by an exhaust fan with six ~~(6)~~ air changes an hour. Group bath and toilet facilities shall be partitioned for complete privacy. ~~(C)~~

f) Resident toilet rooms shall open directly to corridors or into resident bedrooms. When the toilet rooms open into resident bedrooms, the door must swing into the resident's bedroom. All doors in the toilet rooms used by residents shall have a minimum door width of three ~~(3)~~ feet. (B-~~7~~-~~6~~-)

g) Bathroom fixtures shall be of substantial construction and designed so that they may be easily and properly cleaned. All bathtubs,



## Section 330.3090(g) (continued)

showers, and water closets shall be provided with satisfactory and properly placed handgrips ~~and/or~~ or grab bars. ~~(G)~~

- h) Each bath and toilet room shall be well lighted, have a light switch just inside the door, be provided with a well-lighted mirror for each lavatory. ~~(G)~~
- i) Provide at least one ~~(1)~~ bathroom or enclosure of not less than eight ~~(8)~~ feet six ~~(6)~~ inches by eight ~~(8)~~ feet six ~~(6)~~ inches with an acceptable system for bathing persons with physical disabilities. If a shower is installed in lieu of a bathtub, such shower shall have a minimum dimension of four ~~(4)~~ feet wide by three ~~(3)~~ feet six ~~(6)~~ inches deep. These showers shall have a water inlet approximately four and one-half ~~(4 1/2)~~ feet above the floor to which is connected a flexible hose with spray or shower head attached to the end of the hose. If desired, a conventional shower head installation may also be provided but it must be valved off from the lower water inlet. ~~(G)~~

- 1) All other showers shall have a minimum dimension of three ~~(3)~~ feet by three ~~(3)~~ feet and need not have a water inlet as specified above. ~~(G)~~

- 2) Shower stalls shall have a low or no curb at the entrance opening. ~~(G)~~

- j) If toilets provided adjacent to residents' bedrooms are not large enough to permit use by wheelchair residents, at least one ~~(1)~~ toilet room or enclosure in the facility five ~~(5)~~ feet by six ~~(6)~~ feet shall be provided. Provide a lavatory usable by wheelchair residents for this toilet. ~~(G)~~

- k) No toilet or bathroom doors shall be hardware to allow a resident to become locked in the room. (B-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 330.3100 Living, Dining, Activity Room-~~(5)~~

Every building shall have living, dining, and activity rooms which meet the following requirements:

- a) Provide at least one ~~(1)~~ comfortably furnished living room and dining room for use of residents. In multiple story buildings,

## Section 330.3100(a) (continued)

living rooms will be provided on each floor. The activity room may be combined with the living ~~and/or~~ or dining room. Under no circumstances shall this room or rooms be used as a bedroom. ~~(G)~~

- b) The room ~~(5)~~ shall have a combined area of not less than ~~twenty-five (25)~~ square feet per resident bed. ~~(G)~~
- c) The dining room or area shall have at least ten ~~(10)~~ square feet per resident bed. ~~(G)~~
- d) Room ~~(5)~~ shall be well lighted and ventilated and easily accessible to all residents. ~~(G)~~
- e) Be an outside room. Additional interior rooms may be used for television, craft, or similar activities. ~~(G)~~
- f) Be so located that the room is not an entrance vestibule from the out-of-doors, nor an obstruction to traffic in and out of the facility. ~~(G)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3110 Bedrooms

Every building shall meet the following requirements:

- a) Resident bedrooms in all facilities shall be a minimum of ten ~~(10)~~ feet between walls or a wall and any built-in furniture or storage space. Each such bedroom shall have an entrance directly off a corridor with an entrance door not less than three ~~(3)~~ feet wide that swings into the room. ~~(G)~~
- b) Each single bedroom used for a resident shall have at least ~~one~~ ~~(100)~~ square feet of usable net floor area, not including any space taken up for closets, wardrobes, bathrooms, and clearly definable entryway areas. ~~(G)~~
- c) Each multiple bedroom used for residents shall have at least ~~eighty~~ ~~(80)~~ square feet of usable floor area for each resident, not including any space taken for closets, wardrobes, bathrooms, and clearly definable entryway areas. Beds shall be at least three ~~(3)~~ feet apart, and no more than three ~~(3)~~ deep from an outside wall. ~~(G)~~

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## Section 330.3110 (continued)

- d) Maximum capacity of a bedroom shall be four ~~(4)~~ residents. ~~(C)~~
- e) Each bedroom shall be at or above grade level. ~~(C)~~
- f) Each room used as a resident bedroom shall have at least one ~~(1)~~ outside window, and a total window area to the outside equal to at least one-tenth ~~(1/10)~~ the floor area of the room. Windows shall open and close easily. ~~(C)~~
- g) Each bedroom shall have adequate and satisfactory artificial light and be equipped with at least three ~~(3)~~ duplex electric convenience outlets. Electric cords shall not be strung from a ceiling fixture. There shall be an electric switch near the door to control at least one ~~(1)~~ light in the room. ~~(C)~~
- h) Provide a closet or wardrobe of at least two ~~(2)~~ feet square for each resident. ~~(C)~~
- i) Bedroom doors shall have no hardware that will allow the resident to lock himself in the room. The door may be keyed on the corridor side to prevent others from entering the room. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3120 Special Care Room

Every building shall meet the following requirements:

- a) Provide for each ~~(50)~~ beds or less, a single bedroom to isolate a resident who becomes ill enough to require special care. It shall be located for proper and efficient supervision of the resident. ~~(B, C)~~
- b) Provide this room with a toilet, lavatory, and all other necessary facilities to meet the resident's needs. ~~(C)~~
- c) This room shall have at least ~~one hundred (100)~~ square feet of usable floor area, not including any space taken up by closets and wardrobes. It shall be a minimum of ten ~~(10)~~ feet from wall to wall or a wall and any built-in furniture or storage space. ~~(C)~~
- d) The room may be included in the authorized maximum bed capacity for the facility. It is permissible for the room to be occupied by a resident, not in need of special care, provided the resident is

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## Section 330.3120(d) (continued)

clearly informed and understands he will be immediately transferred out of the room any time of day or night, whenever the room is needed to care for a resident requiring special care. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3130 Kitchen

Every building shall meet the following requirements:

- a) The kitchen shall have an area of at least ~~two hundred (200)~~ square feet. ~~(C)~~
- b) Provide a kitchen properly located for efficient food service, and large enough to accommodate the equipment and personnel needed to prepare and serve the number of meals required. The kitchen area, not including food storage area, shall be approximately ten ~~(10)~~ square feet for each resident bed whether the beds are in the same building or not. The approximate ten ~~(10)~~ square feet per resident bed may be reduced for facilities with ~~forty (40)~~ or more beds. Any deviation must receive prior approval from the Department. ~~(B, C)~~
- c) Provide a kitchen with institutional type equipment for convenience in operation, for healthful working conditions, for good sanitation, and for control of heat, noise, and odors. ~~(B, C)~~
- d) Equipment shall be in compliance with the adopted Standards, Basic or Special Criteria of the National Sanitation Foundation Testing Laboratory, or equivalent. ~~(B, C)~~
- e) Provide appropriate equipment for the preparation and serving of meals, for the refrigeration of perishable foods, and for washing and sanitizing dishes and utensils. ~~(B, C)~~
- f) The kitchen shall be provided with at least one ~~(1)~~ handwashing facility separate from food preparation and pan-washing equipment and include hot and cold water, soap, and individual towels. ~~(C)~~
- g) Finish the walls and ceilings of all food handling rooms with washable, light colored surfaces. ~~(C)~~
- h) Effectively screen all openings to the outer air during insect season. Screen doors to the outside shall open outward and be equipped with self-closing devices or an approved alternate method. ~~(C)~~



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## Section 330.3130 (continued)

- i) Provide an adequate supply of hot and cold running water under pressure to rooms in which food is prepared or dishes washed. ~~(C)~~
- k) Provide satisfactory facilities for washing and sanitizing dishes and cooking utensils. The kitchen shall be equipped with a three ~~(3)~~ compartment sink for washing pots and pans. One ~~(1)~~ compartment shall contain no less than ~~fourteen~~ ~~(14)~~ inches depth of water at 170 degrees Fahrenheit ~~water~~. In addition to the sink, a commercial type dishwasher is recommended. ~~(B-C)~~
- l) The kitchen shall be so located that it will not be used as a passageway by residents nor nonfood handling staff. ~~(C)~~
- m) The dishwashing area should be so located that soiled dishes will not pass through the food preparation area. Provide ventilation that will produce negative pressure. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3140 Laundry

## Every building shall:

- a) Provide a laundry room with commercial type equipment designed to meet the needs of the facility unless a commercial laundry service is used. ~~(C)~~
- b) Provide satisfactory storage and separate counting rooms for soiled and clean linens. ~~(C)~~
- c) Have the laundry room, storage and counting rooms located in areas not used by residents nor for food storage, preparation or serving, and so that soiled linens are not carried through a food handling area to reach them. ~~(C)~~
- d) Provide proper mechanical ventilation. ~~(C)~~
- e) If a washer and dryer are provided for personal use by residents, they shall be located in an area separate from the laundry. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.3150 Housekeeping, Service, and Storage

## Every building shall:

- a) On each floor, provide janitor closets with sink or floor receptor and space for cleaning supplies, linen closets, and general storerooms. ~~(C)~~
- b) Provide sufficient storage space for the personal possessions of residents, staff, and activity materials. ~~(C)~~
- c) Provide sufficient storage for bulk and refrigerated food. ~~(B-C)~~
- d) Provide sufficient storage for wheelchairs, walkers, and similar equipment temporarily not being used. ~~(C)~~
- e) Have a medicine storage cabinet or room conveniently located and capable of being locked. ~~(B-C)~~
- f) Have no storage space that constitutes a fire or accident hazard. ~~(A, B-C)~~
- g) Provide a total area of approximately ten ~~(10)~~ square feet per resident for the storage areas designated in this Section. This does not include closets or wardrobes in resident's rooms. About one-fourth ~~(1/4)~~ of the total area shall be for bulk and daily food storage located in a room convenient to the kitchen. ~~(C)~~
- h) Provide separate clean and soiled linen rooms. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3160 Plumbing

- a) Every building shall meet the following plumbing requirements:

- 1) Comply with the ~~latest revision of the~~ Department's rules entitled "Illinois Plumbing Code" (77 Ill. Adm. Code 890). ~~(A, B-C)~~
- 2) All plumbing shall be of adequate size and so installed that fixtures receive water under good pressure and are satisfactorily drained. ~~(C)~~
- 3) All plumbing fixtures having connections to the building water supply shall be connected or equipped so as to prevent any back

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## Section 330.3160(a)(3) (continued)

flow of contaminated material to the water supply piping. (A, B-~~G~~)

- 4) Individual sewer connections shall be such that backflow cannot occur from the building sewer to the fixture. (A, B)
- 5) No physical connection shall be permitted between a safe and an unsafe water supply. (A, B)
- b) The following standards shall be used as a guide to determine satisfactory compliance of individual fixtures:
  - 1) Lavatory faucets shall discharge at least one ~~(1)~~ inch above the top rim of the lavatory bowl. (B-~~G~~)
  - 2) Bathtub, sink, laundry, and tub ~~etc.~~ faucets shall discharge at least two ~~(2)~~ inches above the top rim of the sink. (B-~~G~~)
  - 3) Flush tank type toilets shall be equipped with approved antiphon ballcocks, so installed that the effective air openings of the vacuum breaker is at least one ~~(1)~~ inch above the top of the overflow tube in the toilet flush tank. (B-~~G~~)
  - 4) Flushometer type toilets shall be equipped with approved vacuum breakers, installed on the discharge side of the flush valve, and at least four ~~(4)~~ inches above the top of the toilet bowl. (B-~~G~~)
  - 5) Dishwashing machines, laundry machines, urinals, and drinking fountains ~~etc.~~ shall be so installed as to provide backflow protection. (B-~~G~~)
  - 6) All fixtures having, or capable of receiving, a hose shall have a vacuum breaker located at least six ~~(6)~~ inches above the highest head that normally may be placed on the unit. The height of the antiphon unit should be sufficient to prevent any pressure on the unit, other than atmospheric pressure, when the control valve is closed. (B-~~G~~)
  - 7) Potable water shall be protected from cross connections to sewage piping systems, boilers, and other sources of contaminated water. (B-~~G~~)
  - 8) Hot water distribution systems shall be arranged to provide hot

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## Section 330.3160(b)(8) (continued)

water at each hot water outlet at all times. (B-~~G~~)

- 9) Hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit. (A, B-~~G~~)
- 10) Each hot water system serving resident areas shall include at least one of the following equipment requirements to insure that the water temperature does not exceed 110 degrees Fahrenheit:
  - A) A thermostatically controlled mixing valve, or ~~shall be provided on each hot water system serving resident areas to insure that the water temperature does not exceed 110 degrees F.~~
  - B) A 100 degree Fahrenheit aquastat which limits the water temperature in the water heater to a maximum temperature of 110 degrees Fahrenheit and a solenoid operated shut off valve activated by a sensing element in the water line which shuts off the water and activates an alarm at the nurses station when the water temperature exceeds 100 degrees Fahrenheit. (A, B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.3170 Heating

Every building shall meet the following heating requirements:

- a) Be equipped with a central heating plant, or equivalent system, approved by the Department. ~~(C)~~
- b) The heating system must be capable of maintaining a temperature of 80 degrees Fahrenheit throughout the residents' section of the building during weather conditions when the temperature falls to 20 degrees Fahrenheit. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.3180 Electrical

- a) All electric wiring and equipment shall comply with the latest revisions of the National Electric Code. (A, B-~~G~~)



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## Section 330.3180 (continued)

- b) Provide sufficient and satisfactory artificial lighting and power to meet all the requirements and demands of the building. ~~(C)~~
- c) 1) An emergency electrical service, which may be battery operated if effective for four ~~(4)~~ or more hours, shall provide service as follows: ~~(B, C)~~

- A) Illumination for means of egress.
- B) Illumination of exit signs and exit directional signs.
- C) Fire alarm system.
- D) Telephone service.

- 2) The above shall be in accordance with the National Fire Protection Association Codes.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

## Section 330.3320 Applicability of These Standards

- a) This Subpart N applies ~~these standards shall apply~~ to all new construction. This includes all new buildings; and all additions, and alterations to existing buildings. Building codes cited under Section 330.3040 apply.
- b) Institutional occupancy (a), Health Care Facilities, of the Life Safety Code shall apply throughout unless specifically stated otherwise. ~~(A, B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.3330 Fire Protection

- a) In addition to these standards, the provisions of ~~the latest revision of~~ Fire Prevention and Safety (41 Ill. Adm. Code 100), Office of the State Fire Marshal, shall apply. ~~(A, B, C)~~
- b) Upon request by the Department, the Division of Fire Prevention of

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## Section 330.3330(b) (continued)

the Office of the State Fire Marshal shall make inspection for fire safety and compliance with these standards. It shall call to the attention of the Department ~~of Public Health~~ any violations of these standards which pertain to fire protection. The Division of Fire Prevention shall be privileged to make as many subsequent visits as deemed necessary for assurance of compliance.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.3340 Fire Department Service and Water Supply

All buildings shall meet the following requirements:

- a) Be located not more than three ~~(3)~~ miles from a satisfactory fire station operated by a paid or volunteer organized fire department. A greater distance may be allowed if the building is protected by an approved automatic sprinkler system with flow alarm. ~~(B, C)~~
- b) Be served by a water supply that will supply a sufficient volume of water to fight a fire; and, if involved, the Division of Fire Prevention of the Office of the State Fire Marshal, and satisfactory and accessible for fire department use. ~~(B, C)~~
- c) Have at least one fire hydrant, located within ~~three hundred~~ ~~(300)~~ feet of every point on the perimeter of the building and satisfactory for use by the equipment of the fire department serving the building, or an acceptable equivalent. Additional hydrants may be required if needed to properly protect the residents from fire hazards. Evaluation of the above shall involve consideration of deliverable satisfactory water pressure. ~~(B, C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 330.3350 ~~Building~~ General Building Requirements

- a) Facilities of only one ~~(1)~~ story in height shall be constructed of fire resistive construction, protected noncombustible construction, protected ordinary construction, protected wood frame construction, heavy timber construction, or unprotected noncombustible construction. All facilities except those of fire resistive construction or protected noncombustible construction shall be equipped throughout with an automatic extinguishing system. ~~(A, B, C)~~

## Section 330.3350 (continued)

- b) Facilities of more than one ~~(4)~~ story in height shall be constructed of fire resistive construction, except facilities of not more than three ~~(3)~~ stories in height may be constructed of protected noncombustible construction if equipped throughout with an automatic extinguishing system. (A, B, ~~G~~)
- c) A story is that portion of a building between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.
- d) A basement is any story or floor level below the main or street floor. Where, due to grade differences, there are two levels each qualifying as a street floor, a basement is any floor level below the lower of the two street floors. Basements shall not be counted in determining the height of a building in stories.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3360 Exit Facilities and Subdivision of Floor Areas

Every building shall meet the following requirements:

- a) An exit shall be a way of departure from the interior of the building to the open air outside at the ground level. It may comprise vertical and horizontal means of travel such as doorways, corridors, passageways, stairways, and ramps, including all elements necessary for emergency escape from the building. An exit begins at any doorway or other point of access to an exit from which residents may proceed to the exterior of the building with reasonable safety.
- b) At least two ~~(2)~~ exits, remote from each other, shall be provided for each floor or fire section of the building used by residents. At least one ~~(1)~~ of the exits from each floor or fire section shall be an exit door, stairway, or smokeproof tower. (A, B, ~~G~~)
- c) All other exits shall be either of the above type or a horizontal or ramp type. (~~B, G~~)
- d) Travel distance (a) between any room door intended as exit access and an exit shall not exceed ~~one hundred (100)~~ feet; (b) between any point in a room and an exit shall not exceed ~~one hundred fifty (150)~~ feet; (c) between any point in an institutional sleeping

## Section 330.3360(d) (continued)

- room or suite and an exit access door of that room or suite shall not exceed ~~fifty (50)~~ feet. Travel distances in (a) or (b) may be increased by ~~fifty (50)~~ feet in buildings completely equipped with automatic fire extinguishing system. (A, B, ~~G~~)
- e) Exits shall be arranged so there are no pockets or dead-ends exceeding ~~thirty (30)~~ feet. (A, B, ~~G~~)
- f) All main exits shall lead directly to the outside. Any corridor or passageway a part of the exit route shall be enclosed as required for stairways. (A, B, ~~G~~)
- g) Decorative materials applied to walls or ceilings in means of egress and any room shall have a flame spread rating not to exceed ~~twenty-five (25)~~ except in individual rooms of not over four ~~(4)~~ persons in capacity which may have a rating of not more than ~~seventy-five (75)~~. (A, B, ~~G~~)
- h) Decorative materials applied to wall or ceiling surfaces of corridors more than ~~forty-eight (48)~~ inches above the floor shall not ignite nor flame when inserted for five ~~(5)~~ minutes in a furnace heated to 1200 degrees Fahrenheit. (A, B, ~~G~~)
- i) Floor coverings shall have a smoke developed rating not to exceed 450 as an average of the flaming and nonflaming values as determined by the test procedures outlined in Appendix II NBS Technical Notes 708. (A, B, ~~G~~)
- j) Each floor shall be divided into at least two ~~(2)~~ fire sections by a one ~~(1)~~ hour fire rated smokestop partition, located to provide ample space on each side for the total number of residents on the floor. Additional partitions may be necessary for the safety of the residents. (A, B, ~~G~~)
- k) Openings in smokestop partition shall be protected by a pair of approved doors with a fire resistive rating of at least three-fourths ~~(3/4)~~ of an hour, shall be self-closing, and shall be closed at all times unless they have magnetic hold devices connected to the fire detection or sprinkler system. The doors shall swing in a direction opposite from the other and shall be three ~~(3)~~ feet eight ~~(8)~~ inches in clear width. (A, B, ~~G~~)
- l) Corridor length between smokestop partitions, horizontal exits, or from either to the end of the corridor on any institutional sleeping floor shall not exceed ~~one hundred fifty (150)~~ feet. (A, B, ~~G~~)



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## Section 330.3360 (continued)

- m) Corridor partition walls shall be continuous from the floor slab to the underside of the floor or roof slab above, through any concealed spaces such as those above the suspended ceilings and through interstitial structural and mechanical spaces. (A, B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3370 Stairways, Vertical Openings, and Doorways

Every building shall meet the following requirements:

- a) Stairways shall be enclosed and all openings to them shall be equipped with self-closing doors having a minimum of three ~~feet, eight~~ ~~(8)~~ inches in clear width. Each door shall swing in the direction of exit travel and be equipped with a view panel of clear wired glass, and shall be incapable of being locked from the inside of the stairwell. (A, B, ~~C~~)
- b) All vertical openings or shafts (elevators, dumbwaiters, laundry chutes, and stairways ~~etc.~~) shall be enclosed with material having not less than a two ~~(2)~~ hour fire resistive rating. All doors opening into such vertical openings shall be noncombustible with at least a one and one-half ~~(1 1/2)~~ hour "B" labeled door. (A, B, ~~C~~)
- c) Vertical openings and shafts shall be located in rooms of not less than one ~~(1)~~ hour fire resistive construction. The doors shall be three-fourths ~~(3/4)~~ hour rated solid core wood doors or an equivalent. (A, B, ~~C~~)
- d) All required exit doors shall swing outward, be equipped with panic hardware, and be free of any obstruction, chain, locking or holding device. Each exit door and each door in an exit passageway shall be at least three ~~(3)~~ feet, eight ~~(8)~~ inches in clear width. If the doors have no latching mechanism, panic hardware may not be required. (A, B, ~~C~~)
- e) Any hazardous area shall be enclosed with construction having at least a one ~~(1)~~ hour fire resistance rating or be provided with automatic fire protection. If the hazard is severe it shall have both. Doors shall be kept closed when not in use. (A, B, ~~C~~)
- f) Any door that is part of a fire wall separating sections of a building, or two abutting buildings, shall be appropriate for the

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## Section 330.3370(f) (continued)

fire resistance rating of the separation. (A, B, ~~C~~)

- g) Doors to residents' rooms shall be of solid core wood construction of at least one and three-fourths ~~(1 3/4)~~ inches thickness or equivalent, and shall be at least three ~~(3)~~ feet wide and swing into the room. (A, B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3380 Corridors

Every building shall meet the following requirements:

- a) All corridors required for exit access shall have a minimum unobstructed width of six ~~(6)~~ feet. They shall be equipped on both sides with sturdy handrails, one and one-half ~~(1 1/2)~~ inches clear of the wall. (A, B, ~~C~~)
- b) Exit corridors shall be one ~~(1)~~ hour fire resistance rated construction. (A, B, ~~C~~)
- c) All wood doors shall be one and three-fourths ~~(1 3/4)~~ inch wood, solid core or equivalent. Glass lights shall be wire glass, limited to ~~seven hundred and twenty~~ ~~(720)~~ square inches in size. Louvers in doors shall not be permitted. (A, B, ~~C~~)
- d) Fixed wired glass vision panels may be placed in corridor walls, provided they do not exceed 1,296 square inches in size having a maximum dimension of four ~~(4)~~ feet, six ~~(6)~~ inches and are installed in approved steel frames. Fixed wired glass vision panels may be installed in wood doors, provided they do not exceed ~~seven hundred and twenty~~ ~~(720)~~ square inches in size and are installed in approved steel frames. (A, B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3390 Exit Lights and Directional Signs

Every building shall meet the following requirements:

- a) Exit and directional signs shall be in accordance with ~~the latest~~ ~~revisions of~~ 41 Ill. Adm. Code 100.150 for Fire Prevention and Safety, Office of the State Fire Marshal. (B, ~~C~~)

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## Section 330.3390 (continued)

- b) Every required exit shall have an exit sign readily visible, and additional directional signs shall be located as required to clearly identify the direction of travel to reach the nearest exit. (B-~~G~~)
- c) All signs shall be properly illuminated at all times. (B-~~G~~)
- d) All signs shall be on an emergency electrical system. (B-~~G~~)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3400 Hazardous Areas and Combustible Storage

Every building shall meet the following requirements:

- a) All installations of fuel oil, gas, or liquefied petroleum gas heating equipment or appliances shall conform with the latest revision of the American Gas Association Standards and the National Fire Protection Association pamphlets. (A, B-~~G~~)
- b) The room in which the heating equipment is located shall be adequately vented to the outside atmosphere to properly support combustion. Doors shall swing into the room. (A, B-~~G~~)
- c) All exposed heating ducts in the basement and the smoke pipe or breeching shall be located a safe distance from all combustible material. If they are not a safe distance, the combustible material must be covered properly with a satisfactory fire resistive material. (A, B-~~G~~)
- d) All paints, oils, and flammable materials shall be stored in a fire resistive room in approved metal containers or cabinets or outside the building. (A, B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3410 Fire Alarm and Detection System

- a) There shall be an approved fire detection and alarm system throughout the facility. (A, B-~~G~~)
- b) The fire alarm system shall be manually and automatically operated, electrically supervised, and be equipped with automatic detectors. Pre-signal systems are not permitted. (A, B-~~G~~)

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## Section 330.3410(a) (continued)

- c) The system shall automatically transmit the alarm to any available municipal fire department by direct private lines or through an approved central station. (A, B-~~G~~)
- d) The fire alarm system shall be tested at least weekly. (A, B-~~G~~)
- (Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous

- a) There shall be at least one ~~(1)~~ approved fire extinguisher in all basements, furnace rooms, and kitchens. In addition, there shall be on each floor of the building, extinguishers located so a person will not have to travel more than ~~fifty (50)~~ feet from any point to reach one. They shall be inspected annually and recharged when necessary. The date of checking and recharging shall be recorded on a tag attached to the extinguisher. (A, B-~~G~~)
- b) No fuse or circuit breaker shall be used which would permit a circuit to be overloaded. (A, B-~~G~~)
- c) Drop or extension cords shall not be hung or otherwise supported by a metal support. (A, B-~~G~~)
- d) The building shall be in good condition and repair, especially the roof, chimney, and foundation, so that adequate protection is provided against fire hazards. (A, B-~~G~~)
- e) Approved metal containers with proper covers shall be provided for daily storage of rubbish. (A, B-~~G~~)
- f) Housekeeping throughout the building, including basements, attics, and unoccupied rooms shall be adequately performed to minimize all fire hazards. (A, B-~~G~~)
- g) Comply with any reasonable additional fire protection measures recommended by the Department over and above the requirements in this Subpart, if conditions in and around the building, including its location, indicate that such additional protection is needed. (A, B-~~G~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

- a) All personnel employed on the premises shall be properly instructed in the use of fire extinguishers. (B-~~6~~-~~6~~)
- b) A written plan of evacuation shall be prepared, posted, and made familiar to all personnel employed on the premises. (B-~~6~~-~~6~~)
- c) There shall be a minimum of six ~~(6)~~ fire drills conducted annually ~~(2)~~ two on each shift at irregular intervals. The local fire authorities should be requested to assist periodically in these drills. (B-~~6~~-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR  
EXISTING SHELTERED CARE FACILITIES

## Section 330.3610 Site

Every existing facility shall comply with any applicable local zoning ordinance. (A, B-~~6~~-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 330.3620 ~~Building~~ General Building Requirements

Every existing facility shall:

- a) Be structurally sound, in good repair, and attractive inside and out. (B-~~6~~-~~6~~)
- b) Have stairs, whether inside or outside of the building, provided with sturdy handrails. Stairways over three ~~(3)~~ feet wide shall have handrails on each side. (B-~~6~~-~~6~~)
- c) Be served by reliable telephone service.
- d) Be served by reliable electrical service. The Department may require a standby electric generator on the premises to provide an emergency supply of electricity to maintain essential services when it has evidence that there has been frequent and prolonged interruptions of service that has resulted in a threat to the residents' health and welfare. (B-~~6~~-~~6~~)

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## Section 330.3620 (continued)

- e) Be constructed and maintained so as to prevent the entrance and harborage of rats, mice, flies, and other insects. ~~(C)~~
- f) Have all outside doors, other than required exits, and nonstationary windows equipped with tight-fitting, full-length 16-mesh screens. Screen doors shall be equipped with self-closing devices. ~~(C)~~
- g) Have each exterior door equipped with a signal that will alert personnel in the area if a resident leaves the building. Any exterior door that is supervised during certain periods during the day or night may have a disconnect device for part-time use. If there is constant ~~twenty-four (24)~~ hour a day supervision of the door, a signal is not required. (B-~~6~~-~~6~~)
- h) Be provided with sufficient and satisfactory artificial lighting wherever required throughout the building and grounds. ~~(C)~~
- i) Have smooth floors which are free from cracks and finished so that they can be easily and properly cleaned. Floors in bathrooms, kitchens, and utility rooms shall be covered wall to wall with terrazzo, inlaid linoleum, tile or approved equivalent. (B-~~6~~-~~6~~)
- j) Have all walls and ceilings of sound construction, covered with plaster or approved equivalent, in good repair, and free from cracks or holes for easy and proper cleaning. ~~(C)~~
- k) Have all windows in good repair so that they fit snugly, yet will open and close easily. ~~(C)~~
- l) Have safety devices provided across low windows, on open porches, at changes in floor level, and at other danger areas inside or outside the building, when there is a danger present to residents. (B-~~6~~-~~6~~)
- m) Have no other business unrelated to health care conducted in the building that constitutes a hazard or annoyance to the residents. In any case, the business shall be in a segregated portion of the building. ~~(C)~~
- n) Have any thresholds for doorways used by residents flush with the floor. ~~(C)~~
- o) Have a ceiling height of eight ~~(8)~~ feet or more throughout all rooms occupied or used by residents. ~~(C)~~

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## Section 330.3620 (continued)

p) Provide a medicine cabinet. ~~(C)~~ (See Section 330.1520.)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3630 Administration

Every existing facility shall provide sufficient administrative office space for clerical, financial, and managerial functions. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3640 Corridors

Every existing facility shall have:

- a) All corridors and passages used by residents at least three ~~(3)~~ feet wide and properly lighted at night and at other times when necessary. If handrails project more than three and one-half ~~(3.5)~~ ~~(42)~~ inches, the width shall be measured between the handrails. ~~(B-C)~~
- b) No nonambulatory residents in a bedroom unless it can be reached by passing through a passage or corridor which is at least four ~~(4)~~ feet wide and is properly lighted at night and at other times when necessary. ~~(B-C)~~
- c) All corridors and passages used by residents provided with sturdy handrails on each side. ~~(B-C)~~
- d) All corridors enclosed from weather and properly heated. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3650 Bath and Toilet Rooms

- a) Every existing facility shall be provided with a minimum of one ~~(1)~~ water closet, one ~~(1)~~ lavatory, and one ~~(1)~~ bathtub or shower on each floor occupied by residents. ~~(C)~~

- b) Have bathroom fixtures provided in the following minimum numbers:

- 1) One ~~(1)~~ lavatory and one ~~(1)~~ water closet for each ten

## Section 330.3650(b)(1) (continued)

~~(10)~~ resident beds on each floor. ~~(C)~~

- 2) One ~~(1)~~ bathtub or shower for each ~~fifteen~~ ~~(15)~~ resident beds on each floor. The number of resident beds shall be used in determining the number of bathroom fixtures required, irrespective of the fact that some of the beds may not be occupied, or may be occupied by bedfast residents. ~~(C)~~
- c) Have no toilet room, other than for employees, open directly into a kitchen, pantry, food preparation or food storage room. ~~(C)~~
- d) Have bathroom fixtures of substantial construction, in good repair and design, so that they may be satisfactorily cleaned. All toilets, showers, and bathtubs shall be provided with satisfactory handgrips to assist residents in using them. ~~(C)~~
- e) Have each toilet and bathroom adequately lighted, have a light switch just inside or outside the door, and be provided with a well-lighted mirror for each lavatory. ~~(C)~~
- f) Have all bath and toilet rooms conveniently located and ventilated to the outside atmosphere either by a window or an exhaust fan. No such room shall open directly into a kitchen, dining room, pantry, food preparation or food storage room. Neither shall it be so located that a resident must pass through any such area to reach it. ~~(C)~~
- g) Have all toilet and bathrooms with no hardware that will allow a resident to lock himself in the room. ~~(B-C)~~
- h) Have partial partitions or cubical curtains to afford privacy for each toilet and bath fixture when there are more than one ~~(1)~~ of each type fixture in a room. ~~(C)~~
- i) Have toilet enclosures.
- j) Any shower stalls shall be a minimum of three ~~(3)~~ feet wide by three ~~(3)~~ feet deep ~~and have a low or no curb at the entrance-opening~~. Satisfactory and properly placed handgrips shall be provided in the shower stall. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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Section 330.3660 Living, Dining, and Activity Room—~~(6)~~—

## a) Every existing facility shall:

- 1) Provide accessible and satisfactory areas for living, dining, and activities to meet the needs of the residents. These rooms shall: ~~(6)~~—
- 2) Be well lighted and ventilated, and easily accessible to all residents. ~~(6)~~—
- 3) Be an outside room. Additional interior rooms may be used for television, crafts, or similar activities. ~~(6)~~—
- 4) Provide adequate floor area to satisfactorily serve the residents in the facility. ~~(6)~~—
- 5) Be so located that the room is not an entrance vestibule from the out-of-doors, nor an obstruction to traffic in and out of the facility. ~~(6)~~—

- b) Have at least one ~~(4)~~— comfortably furnished living room on each floor. These living rooms shall, in multiple story buildings, be provided on each floor unless a variance to this requirement is approved in writing by the Department. Under no circumstances shall the living room be used as a bedroom. The minimum floor space for a living room shall be ~~eighty~~ ~~(80)~~— square feet. The dining room shall be sufficient in area to properly and comfortably seat the residents. The combined living room, dining room, and activity area shall be approximately ~~fifteen~~ ~~(15)~~— square feet per resident bed. ~~(6)~~—

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3670 Bedrooms

## a) Every existing facility shall meet the following requirements for bedrooms:

- 1) Each single bedroom for a resident shall have at least ~~sixty~~ ~~(60)~~— square feet of floor area not including any space taken up by closets. Facilities established after January 1, 1958, shall provide ~~seventy~~ ~~(70)~~— square feet for a single room. ~~(6)~~—
- 2) Each multiple bedroom used for residents shall have at least

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## Section 330.3670(a)(2) (continued)

~~sixty~~ ~~(60)~~— square feet of floor area, not including any space taken up by closets, for each resident's bed. There shall be a three ~~(3)~~— foot minimum distance between beds. ~~(6)~~—

## b) All bedrooms shall meet the following requirements:

- 1) No more than four ~~(4)~~— residents shall share a bedroom, regardless of its size. ~~(6)~~—
- 2) Each bedroom shall be provided with a door and have the furniture in the room so arranged, even if it reduces the bed capacity of the room, so that the bed, bedside stand, and chair for each resident will be reasonably well arranged. Beds shall not be located near radiators, registers, nor sources of drafts. ~~(6)~~—
- 3) No room which opens into the kitchen shall be used as a resident bedroom. ~~(6)~~—
- 4) No rooms shall be used as resident bedrooms which necessitate passing through a kitchen to reach any other part of the facility. ~~(6)~~—
- 5) Occupancy of bedrooms shall be such that residents of one sex will not pass through a bedroom for the opposite sex to reach any part of the facility. ~~(6)~~—
- 6) Each bedroom shall have adequate and satisfactory artificial light and be equipped with at least one ~~(4)~~— duplex electric convenience outlet. Electric cords shall not be strung from a ceiling fixture. There shall be an electric switch near the door in each bedroom to control at least one ~~(4)~~— light in the room. ~~(B—6)~~—
- 7) Each bedroom shall be an outside room and have window glass area equal to at least ten percent ~~(40%)~~— of the usable floor area. This window area shall provide an amount of light equivalent to that provided by an unobstructed window. ~~(6)~~—
- 8) Rooms with a floor more than three ~~(3)~~— feet below the adjacent ground level shall not be used for resident bedrooms. ~~(6)~~—
- 9) Bedroom doors shall have no hardware that will allow the resident to lock himself in the room. The door may be keyed on

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Section 330.3670(b)(9) (continued)

the corridor side to prevent others from entering the room:  
(B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 330.3680 Special Care Room

Every existing facility shall provide a vacant bedroom, or one that can be vacated, for use as a bedroom to temporarily isolate a resident who becomes ill. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 330.3690 Kitchen

Every existing facility shall:

- a) Provide a kitchen properly located for efficient food service, and large enough to accommodate the equipment and personnel needed to prepare and properly serve the number of meals required, all in accordance with the ~~latest revised edition of the~~ Department's rules entitled "Food Service Sanitation" ~~rules~~ (77 Ill. Adm. Code 750). Adequacy of the kitchen facilities will be determined by the Department if it is sufficient to meet the needs of the residents based on professional evaluation. (B, ~~C~~)
- b) Provide a subkitchen with satisfactory facilities for serving meals properly from thermo containers; for storing staple foods and nutrients; and for properly washing and sanitizing dishes if the prepared meals are transported to the facility from a central kitchen in another building. ~~(C)~~
- c) Have the walls and ceilings of all food handling rooms finished with smooth, washable, light colored surfaces. ~~(C)~~
- d) Have all openings to the outer air effectively screened during fly season, and have screen doors either open outward, equipped with self-closing devices, or a satisfactory alternate method. ~~(C)~~
- e) Have adequate artificial light provided on all work surfaces in rooms in which food is prepared and dishes are washed. Artificial light shall be used except when equivalent natural light is present. ~~(C)~~

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Section 330.3690 (continued)

- f) Have food servicing rooms adequately ventilated so as to be reasonably free from disagreeable odors and moisture. ~~(C)~~
- g) Have an adequate supply of hot and cold running water under pressure, easily available to rooms in which food is prepared and dishes are washed. ~~(C)~~
- h) Have a two ~~(2)~~ compartment sink or its equivalent; one ~~(1)~~ compartment for washing dishes and the other for rinsing and disinfecting them. The compartment for disinfection shall be sufficiently deep to allow complete submersion of all items washed. (B, ~~C~~)
- i) Have future installations of equipment of an institutional type in compliance with the adopted standards of the National Sanitation Foundation Testing Laboratory (including basic or special criteria), or equivalent. (B, ~~C~~)
- j) Have the kitchen so located that no resident must pass through it to reach the bathroom, his bedroom, the living room, or out-of-doors. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

Section 330.3700 Laundry Room

Every existing facility shall:

- a) Provide a laundry room equipped with adequate facilities for satisfactorily doing all laundering, unless a commercial laundry service is used. ~~(C)~~
- b) Provide satisfactory storage and counting areas for soiled and clean linens. These may be in the same room if well defined and adequate separation can be provided. Mechanical ventilation shall provide sufficient air flowing from the clean area to the soiled, with proper exhaust. ~~(C)~~
- c) Not be located in a room used by residents, or for food storage, preparation or serving. It shall be so located that soiled linens are not carried through a food handling area to reach it. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)



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## Section 330.3710 Housekeeping and Service Rooms and Storage Space

## Every existing facility shall:

- a) Provide adequate storage space in the facility, out of the way of residents and staff, to store wheelchairs, walkers, and similar equipment temporarily not being used. ~~(C)~~
- b) Provide adequate storage space for excess personal possessions of residents and staff, linens, supplies, and other items. This storage shall be such that it does not constitute a fire or accident hazard and will not be in the way of residents or staff. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.3720 Plumbing and Heating

- a) Every existing facility shall meet the following plumbing and heating requirements:

- 1) All plumbing shall comply with the ~~latest revision of the~~ Department's rules entitled "Illinois Plumbing Code" (77 Ill. Adm. Code 890) effective at the time of approval by the ~~this~~ Department of either the architectural plans or the building. ~~(A, B, C)~~
- 2) All plumbing within the building shall be of an adequate size and so installed that fixtures receive water under good pressure and are satisfactorily drained. ~~(A, B, C)~~
- 3) No physical connection shall be permitted between a safe and an unsafe water supply. ~~(A, B, C)~~
- b) All plumbing installations and fixtures on the premises shall be of such a type and design that danger of contaminated water entering the drinking water piping by backflow or backsiphonage is eliminated. The following standards shall be used as a guide to determine satisfactory compliance of individual fixtures: ~~(A, B, C)~~
  - 1) Lavatory faucets shall discharge at least one ~~(1)~~ inch above the top rim of the lavatory bowl. ~~(B, C)~~
  - 2) Faucets for bathtubs, sinks, and laundry tubs ~~etc.~~ shall discharge at least two ~~(2)~~ inches above the top rim of the fixture. ~~(B, C)~~

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## Section 330.3720(b) (continued)

- 3) Flush tank type toilets shall be equipped with approved antisiphon ball cocks, so installed that the effective air opening of the vacuum breaker is at least one ~~(1)~~ inch above the top of the overflow tube in the toilet flush tank. ~~(B, C)~~
- 4) Flushometer type toilets shall be equipped with approved vacuum breakers installed on the discharge side of the flush valve and at least four ~~(4)~~ inches above the top of the toilet bowl. ~~(B, C)~~
- 5) Dishwashing machines, laundry machines, urinals, and drinking fountains ~~etc.~~ shall be so installed as to provide backflow protection. ~~(B, C)~~
- 6) Protection against other backflow possibilities may be required by the Department. ~~(B, C)~~
- 7) All fixtures having, or capable of receiving, a hose shall have a vacuum breaker located at least six ~~(6)~~ inches above the highest head that normally may be placed on the unit. The height of the antisiphon unit should be sufficient to prevent any pressure on the unit, other than atmospheric pressure, when the control valve is closed. ~~(B, C)~~
- 8) Hot water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. ~~(B, C)~~
- 9) Hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees F. ~~(A, B, C)~~
- 10) Protective measures such as but not limited to, installation of a mixing valve, limited access to controls, and checking water temperatures daily at various points, shall be implemented to insure that the temperature of hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit. ~~(A, B, C)~~

- c) The facility shall be equipped with a central heating plant, and have a radiator, convector, or register in each room used by residents or staff. ~~(C)~~
- d) The heating system shall be capable of maintaining a temperature of 80 degrees Fahrenheit throughout the residents' section of the building during weather conditions when the temperature falls to

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## Section 330.3720(d) (continued)

~~twenty (20)~~ degrees below zero ~~(0)~~ Fahrenheit. ~~(C)~~

- e) Alternative modern types of heating systems may be accepted, if it is adequate to meet the needs of the residents as determined by professional standards.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3730 Electrical

Every existing facility shall meet the following electrical requirements:

- a) All electrical wiring and equipment shall comply with the latest revisions of the "National Electric Code" effective at the time of approval by this Department of either the architectural plans or the building. (A, B, ~~C~~)
- b) All facilities shall provide sufficient and satisfactory artificial lighting and power to meet all the requirements and demands of the building. ~~(C)~~
- c) See Section 330.3960(a) for exit lights and Section 330.3990 (g), (h) and (i) for emergency lighting. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

## Section 330.3910 Fire Protection

- a) In addition to these standards, the provisions of ~~the latest revision of the rules for~~ Fire Prevention and Safety (41 Ill. Adm. Code 100) of the Office of the State Fire Marshal shall apply to all existing facilities. (A, B, ~~C~~)
- b) Upon request by the Department, the Office of the State Fire Marshal shall make inspections for fire safety and compliance with these standards. It shall call to the attention of the Department any violations of these standards which pertain to fire protection. The Office of the State Fire Marshal shall be privileged to make as many subsequent visits as deemed necessary for assurance of compliance.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.3920 Fire Department Service and Water Supply

Every existing facility shall:

- a) Be served by a paid or voluntary organized fire department. (A, B, ~~C~~)
- b) Have an adequate water supply that is satisfactory and accessible for fire department use. Facilities not served by a satisfactory supply must provide such supply. (B, ~~C~~)
- c) Have at least one ~~(1)~~ municipal or private fire hydrant, located within ~~three hundred (300)~~ feet of the building and satisfactory for use by the equipment of the fire department serving the building, or an acceptable equivalent. Additional hydrants may be required if needed to properly protect the residents from fire hazards. (B, ~~C~~)
- d) Be located within two ~~(2)~~ miles of, and served by, a satisfactory fire department. (B, ~~C~~)
- e) Not increase bed capacity if located more than two ~~(2)~~ miles from a satisfactory fire department unless a satisfactory sprinkler system is installed. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3930 Occupancy and Fire Areas

Every existing facility shall meet the following requirements:

- a) Buildings with "nonfire resistive" type construction shall not house any residents above the second floor. The third and fourth floors of facilities, including Residential Care (Half-Way) Homes that were in operation in the City of Chicago and subject to the local licensing ordinance for such homes in December, 1968, may be approved for alert ambulatory residents if the facility is protected by an approved automatic sprinkler system ~~and/or~~ or approved automatic fire detection and alarm system directly connected to the nearest available fire department in addition to the other usual fire protection measures. (A, B, ~~C~~)
- b) A basement shall not be counted as a floor unless the floor above is more than eight ~~(8)~~ feet, six ~~(6)~~ inches above the ground level at any adjacent point of the building. Service and entrance area ways encompassing not more than ~~twenty-five percent (25%)~~ of



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## Section 330.3930(b) (continued)

the perimeter of the building may be disregarded.

- c) Attic and roof spaces, when designed for occupancy or used for storage, shall be considered as an additional story in a building.
- d) Any facility which is especially susceptible to rapid spread of fire by reason of combustible construction, unenclosed vertical openings, or other inflammable conditions, shall be protected by an approved automatic fire detection and alarm system with direct connection to the fire department or an approved automatic sprinkler system with a flow alarm. (A)
- e) All sheltered care facilities that are not of fire resistive or protected noncombustible type construction, shall be protected by an approved automatic sprinkler system with flow alarm. (A)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3940 Exit Facilities and Subdivision of Floor Areas

Every existing facility shall meet the following requirements:

- a) Each floor used for the housing of residents shall have at least two ~~(2)~~ approved exits which are well separated and provided in the most accessible locations. (A, B, ~~C~~)
- b) All future fire escapes shall be of fire resistive construction. (B)
- c) All corridors and passageways to be used as a means of horizontal exit shall be at least three ~~(3)~~ feet wide. (B, ~~C~~)
- d) Wherever an existing or future stairway, balcony landing, platform, slide escape, or runway of a fire escape stairway is located ten ~~(10)~~ feet or less from a window or doorway, such window or door shall be provided with wired glass. (B, ~~C~~)
- e) All exits, passageways, and exits through rooms shall be kept free of any item that would obstruct the exit route. (B, ~~C~~)
- f) All corridors and passages to be used as a means of horizontal exit, or part of a means of exit, shall not lead through any room or space used for a purpose that may obstruct free passage. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.3950 Stairways, Vertical Openings, and Doorways

Every existing facility shall meet the following requirements:

- a) All stairways shall be enclosed and protected with smokestop partitions and doors at each floor level. All doors that are a part of this protection shall swing in the direction of the exit from the building, be provided with view panels of clear wired glass, and have door closers. These doors shall be closed at all times when not in use. (A, B, ~~C~~)
- b) All vertical openings or shafts (elevators, dumbwaiters, laundry chutes, and stairways, ~~etc.~~) shall be completely lined with metal or equivalent fire resistive material. Openings into shafts shall be protected with self-closing fire resistive doors. A sprinkler head or detection device is recommended in each shaft. (A, B, ~~C~~)
- c) All required exterior exit doors shall swing outward, be equipped with panic hardware, and be free of any obstruction. No chain locking, or holding device shall be permitted on any door equipped with panic hardware other than the latching mechanism of the panic hardware itself. If the doors have no latching mechanism, panic hardware may not be required. (A, B, ~~C~~)
- d) Interior kitchen doors shall be covered with fire resistive material on the kitchen side with a view panel of clear, wired glass. All such doors shall swing into the kitchen and shall be kept closed at all times when not in use unless otherwise approved by the Department. Such approval will be granted only when such variance will not create a hazard to the health, welfare, or safety of residents. (B, ~~C~~)
- e) All doors from the basement which lead into the interior of the building shall be self-closing, be covered with fire resistive material on the basement side, and have a view panel of clear wired glass. These doors shall be closed at all times when not in use. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3960 Exit and Fire Escape Lights and Directional Signs

Every existing facility shall meet the following requirements:

- a) Standard illuminated exit lights on a separate electric circuit shall be provided at all exits on each floor. The signs shall bear the

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## Section 330.3960(a) (continued)

word "EXIT" in conspicuous lettering on a contrasting background to comply with local ordinances or practice. These lights shall be kept lighted at all times. (A, B, ~~C~~)

- b) A fire escape sign shall be placed over the inside of each door to the fire escape. The sign shall bear the words "FIRE ESCAPE" in conspicuous lettering on a contrasting background to comply with local ordinances or practice. These lights should be lighted at all times. (A, B, ~~C~~)
- c) White lights shall be provided on the outside of the building over each door to the fire escape. These lights shall be kept on a separate circuit and shall be kept lighted at all times unless they are on a timer or solar device. (A, B, ~~C~~)
- d) Directional signs of similar construction as above shall be provided throughout the building and its corridors as needed or required to show the direction to exits.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3970 Hazardous Areas and Combustible Storage

Every existing facility shall meet the following requirements:

- a) A central heating plant (including any coal storage) shall be located in a separate room. The room, including the ceiling and any doors, shall be constructed of, or satisfactorily protected by, approved fire resistive material providing a fire resistance rating of at least one ~~4 1/2~~ hour. All doors to the room must be protected with asbestos and metal on the furnace room side (or equivalent protection), swing into the room, and be self-closing. The rooms shall be adequately vented to the outside atmosphere to properly support combustion in the furnace. (Alternate modern types of heating systems may be approved by the Department.) (A, B, ~~C~~)
- b) The entire basement ceiling in nonfire resistive buildings shall be protected with one ~~1 1/2~~ hour rated materials if it is not practical to provide a separate room for the heating plant. (A, B, ~~C~~)
- c) All exposed heating ducts in the basement and the smoke pipe or breeching shall be located a safe distance from all combustible material. If they are not a safe distance, the combustible material

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## Section 330.3970(c) (continued)

must be properly covered with a satisfactory resistive material. (A, B, ~~C~~)

- d) All installations of fuel oil, gas, or liquified petroleum gas heating equipment and appliances shall conform to the American Gas Association Standards and the following National Fire Protection Association pamphlets: (A, B, ~~C~~)
  - 1) Fuel Oil, NFPA--31.
  - 2) Gas, NFPA--54.
  - 3) Liquified Petroleum, NFPA--58.
- e) Auxiliary gas or electric space heaters of an approved closed type may be installed in areas requiring more heat than is produced by the central heating system. Heaters in corridors must be ceiling hung or wall recessed units. (B, ~~C~~)
- f) Floor type heaters or furnaces are not permitted. (B, ~~C~~)
- g) All paints, oils, and flammable materials shall be stored in a fire resistive room in approved metal containers and metal cabinets, or stored outside the building. (A, B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.3980 Fire Alarm and Detection System

Existing facility shall meet the following requirements:

- a) An approved standard fire detection and alarm system shall be provided. The provisions of 41 Ill. Adm. Code 100.190 of the latest revision of rules for Fire Prevention and Safety of the Office of the State Fire Marshal, effective at the time of construction ~~and for~~ or acceptance of the building by this Department, shall apply in determining satisfactory compliance with this item. (A, B, ~~C~~)
- b) The fire alarm system shall be manually and automatically operated and equipped with detectors. (A, B, ~~C~~)
- c) Every facility shall have hazardous areas and rooms protected by an approved automatic detector system. (A, B, ~~C~~)



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## Section 330.3980 (continued)

- d) The system shall automatically transmit the alarm to any available municipal fire department by direct private line or through an approved central station. (A, B-~~6~~-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.3990 Fire Extinguishers, Electric Wiring, and Miscellaneous

Every existing facility shall meet the following requirements:

- a) There shall be at least one ~~(1)~~ approved fire extinguisher in all basements, furnace rooms, and kitchens. In addition, there shall be on each floor of the building, extinguishers located so a person will not have to travel more than ~~fifty~~ ~~(50)~~ feet from any point to reach one. They shall be inspected annually and recharged when necessary. The date of checking and recharging shall be recorded on a tag attached to the extinguisher. (A, B-~~6~~-~~6~~)
- b) All electrical wiring and equipment shall comply with the latest revisions of the National Electric Code effective at the time of construction ~~and/or~~ or acceptance of the building by this Department. (A, B-~~6~~-~~6~~)
- c) No fuse or circuit breaker shall be used which would permit a circuit to be overloaded. (A, B-~~6~~-~~6~~)
- d) Drop or extension cords shall not be hung or otherwise supported by a metal support. (A, B-~~6~~-~~6~~)
- e) The building shall be in good condition and repair, especially the roof, chimney, and foundation, so that adequate protection is provided against fire hazards. (A, B-~~6~~-~~6~~)
- f) All wood partitions located in the basement shall be protected with fire resistive material. (A, B-~~6~~-~~6~~)
- g) Emergency sources of lighting shall be provided for use in case of electrical power failure.
- h) Acceptable methods of providing emergency lighting are:
  - 1) Emergency generator.
  - 2) Two ~~(2)~~ service lines, each from a separate substation.

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## Section 330.3990(h) (continued)

- 3) Wet cell batteries in series.
- 4) Self-charging, wall-mounted light units.

- i) Kerosene, gasoline, alcohol, or carbide lamps shall not be permitted on the premises. (A, B)

- j) Approved metal containers with covers shall be provided for daily storage of ashes ~~and~~ and rubbish ~~etc.~~. (A, B-~~6~~-~~6~~)

- k) Housekeeping throughout the building, including basements, attics, and unoccupied rooms, shall be adequately performed to minimize all fire hazards. (A, B-~~6~~-~~6~~)

- l) The Department reserves the right to require any reasonable additional fire protection measures deemed necessary for the safety of the residents. Additional fire protection measures shall include, but are not limited to the institution of a fire watch installation of a sprinkler system ~~and/or~~ and installation of smoke detectors.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

- a) All personnel employed on the premises shall be properly instructed in the use of fire extinguishers. (B-~~6~~-~~6~~)

- b) A written plan of evacuation shall be prepared, posted, and made familiar to all personnel employed on the premises. (B-~~6~~-~~6~~)

- c) Fire drills, involving all shifts, shall be conducted at sufficient intervals so that personnel on each shift participate in such a drill at least every six ~~(6)~~ months. The local fire authorities should be requested to assist periodically in these drills. (B-~~6~~-~~6~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## SUBPART Q: RESIDENT'S RIGHTS

## Section 330.4210 General

- a) No resident shall be deprived of any rights, benefits, or privileges guaranteed by law based on their status as a resident of a facility. (A, B-~~6~~-~~6~~)

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## Section 330.4210 (continued)

- b) A RESIDENT SHALL BE PERMITTED TO RETAIN AND USE OR WEAR HIS PERSONAL PROPERTY IN HIS IMMEDIATE LIVING QUARTERS, UNLESS DEEMED MEDICALLY INAPPROPRIATE BY A PHYSICIAN AND SO DOCUMENTED IN THE RESIDENT'S CLINICAL RECORD. ~~(C)~~
- c) IF CLOTHING IS PROVIDED TO THE RESIDENT BY THE FACILITY IT SHALL BE OF A PROPER FIT. ~~(C)~~
- d) THE FACILITY SHALL PROVIDE ADEQUATE AND CONVENIENT STORAGE SPACE FOR THE PERSONAL PROPERTY OF THE RESIDENT. ~~(C)~~
- e) THE FACILITY SHALL PROVIDE A MEANS OF SAFEGUARDING SMALL ITEMS OF VALUE FOR ITS RESIDENTS IN THEIR ROOMS OR IN ANY OTHER PART OF THE FACILITY SO LONG AS THE RESIDENTS HAVE DAILY ACCESS TO SUCH VALUABLES. ~~(C)~~
- f) THE FACILITY SHALL DEVELOP PROCEDURES FOR INVESTIGATION COMPLAINTS CONCERNING THEFT OF RESIDENT'S PROPERTY AND SHALL PROMPTLY INVESTIGATE ALL SUCH COMPLAINTS. ~~(C)~~
- g) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT MARRIED RESIDENTS RESIDING IN THE SAME FACILITY BE ALLOWED TO RESIDE IN THE SAME ROOM WITHIN THE FACILITY UNLESS THERE IS NO ROOM AVAILABLE IN THE FACILITY OR IT IS DEEMED MEDICALLY INADVISABLE BY THE RESIDENT'S ATTENDING PHYSICIAN AND SO DOCUMENTED IN THE RESIDENT'S MEDICAL RECORDS. ~~(C)~~
- h) There shall be no traffic through a resident's room to reach any other area of the building. (B, ~~C~~)
- i) Children under ~~sixteen~~ ~~(16)~~ years of age who are related to employees or owners of a facility, and who are not themselves employees of the facility, shall be restricted to quarters reserved for family or employee use except during times when such children are part of a group visiting the facility as part of a planned program, or similar activity. ~~(C)~~
- j) A RESIDENT MAY REFUSE TO PERFORM LABOR FOR A FACILITY. ~~(C)~~
- k) A RESIDENT SHALL BE PERMITTED THE FREE EXERCISE OF RELIGION. UPON A RESIDENT'S REQUEST, AND IF NECESSARY AT HIS EXPENSE, THE FACILITY ADMINISTRATOR SHALL MAKE ARRANGEMENTS FOR A RESIDENT'S ATTENDANCE AT RELIGIOUS SERVICES OF THE RESIDENT'S CHOICE. HOWEVER, NO RELIGIOUS BELIEFS OR PRACTICES, OR ATTENDANCE AT RELIGIOUS SERVICES, MAY BE IMPOSED UPON ANY RESIDENT. ~~(C)~~

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## Section 330.4210 (continued)

- l) All facilities shall comply with the "Illinois Election Code" as it pertains to absentee voting for residents of licensed long-term care facilities. ~~(C)~~
- m) THE FACILITY SHALL IMMEDIATELY NOTIFY THE RESIDENT'S NEXT OF KIN, REPRESENTATIVE AND PHYSICIAN OF THE RESIDENT'S DEATH OR WHEN THE RESIDENT'S DEATH APPEARS TO BE IMMINENT. ~~(C)~~
- n) THE FACILITY SHALL ALSO IMMEDIATELY NOTIFY THE RESIDENT'S FAMILY, GUARDIAN, REPRESENTATIVE, CONSERVATOR AND ANY PRIVATE OR PUBLIC AGENCY FINANCIALLY RESPONSIBLE FOR THE RESIDENT'S CARE WHENEVER UNUSUAL CIRCUMSTANCES SUCH AS ACCIDENTS, SUDDEN ILLNESS, DISEASE, UNEXPLAINED ABSENCES, EXTRAORDINARY RESIDENT CHARGES, BILLINGS, OR RELATED ADMINISTRATIVE MATTERS ARISE. (B, ~~C~~)
- o) WHERE A RESIDENT, A RESIDENT'S REPRESENTATIVE OR A RESIDENT'S NEXT OF KIN BELIEVES THAT AN EMERGENCY EXISTS EACH OF THEM, COLLECTIVELY OR SEPARATELY, MAY FILE A VERIFIED PETITION TO THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE FACILITY IS LOCATED FOR AN ORDER PLACING THE FACILITY UNDER THE CONTROL OF A RECEIVER. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.4220 Medical and Personal Care Program

- a) A RESIDENT SHALL BE PERMITTED TO RETAIN THE SERVICES OF HIS OWN PERSONAL PHYSICIAN AT HIS OWN EXPENSE UNDER AN INDIVIDUAL OR GROUP PLAN OF HEALTH INSURANCE, OR UNDER ANY PUBLIC OR PRIVATE ASSISTANCE PROGRAM PROVIDING SUCH COVERAGE. (B, ~~C~~)
- b) THE DEPARTMENT SHALL NOT PRESCRIBE THE COURSE OF MEDICAL TREATMENT PROVIDED TO AN INDIVIDUAL RESIDENT BY THE RESIDENT'S PHYSICIAN IN A FACILITY. ~~(C)~~
- c) EVERY RESIDENT SHALL BE PERMITTED TO OBTAIN FROM HIS OWN PHYSICIAN OR THE PHYSICIAN ATTACHED TO THE FACILITY COMPLETE AND CURRENT INFORMATION CONCERNING HIS MEDICAL DIAGNOSIS, TREATMENT AND PROGNOSIS IN TERMS AND LANGUAGE THE RESIDENT CAN REASONABLY BE EXPECTED TO UNDERSTAND. ~~(C)~~
- d) EVERY RESIDENT SHALL BE PERMITTED TO PARTICIPATE IN THE PLANNING OF HIS TOTAL CARE AND MEDICAL TREATMENT TO THE EXTENT THAT HIS CONDITION PERMITS. ~~(C)~~



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## Section 330.4220 (continued)

e) NO RESIDENT SHALL BE SUBJECTED TO EXPERIMENTAL RESEARCH OR TREATMENT WITHOUT FIRST OBTAINING HIS INFORMED, WRITTEN CONSENT. THE CONDUCT OF ANY EXPERIMENTAL RESEARCH OR TREATMENT SHALL BE AUTHORIZED AND MONITORED BY AN INSTITUTIONAL REVIEW COMMITTEE APPOINTED BY THE ADMINISTRATOR OF THE FACILITY WHERE SUCH RESEARCH AND TREATMENT IS CONDUCTED. (A, B, ~~C~~)

f) EVERY RESIDENT SHALL BE PERMITTED TO REFUSE MEDICAL TREATMENT AND TO KNOW THE CONSEQUENCES OF SUCH ACTION, UNLESS SUCH REFUSAL WOULD BE HARMFUL TO THE HEALTH AND SAFETY OF OTHERS AND SUCH HARM IS DOCUMENTED BY A PHYSICIAN IN THE RESIDENT'S CLINICAL RECORD. (B, ~~C~~)

g) 1) EVERY RESIDENT, RESIDENT'S GUARDIAN, OR PARENT IF THE RESIDENT IS A MINOR SHALL BE PERMITTED TO INSPECT AND COPY ALL HIS CLINICAL AND OTHER RECORDS CONCERNING HIS CARE AND MAINTENANCE KEPT BY THE FACILITY OR BY HIS PHYSICIAN. (See Section 2-104(c) of the Act.)

2) EVERY RESIDENT'S REPRESENTATIVE SHALL BE PERMITTED TO INSPECT AND COPY THE RESIDENT'S RECORDS. A "RESIDENT'S REPRESENTATIVE" IS A PERSON, OTHER THAN THE OWNER OR AGENT OR EMPLOYEE OF A FACILITY WHO IS NOT RELATED TO THE RESIDENT, DESIGNATED IN WRITING BY A RESIDENT TO BE HIS REPRESENTATIVE, OR THE RESIDENT'S GUARDIAN, OR THE PARENT OF A MINOR RESIDENT FOR WHOM NO GUARDIAN HAS BEEN APPOINTED. (See Sections 2-202(h) and 1-123 of the Act.)

h) A RESIDENT SHALL BE PERMITTED RESPECT AND PRIVACY IN HIS MEDICAL AND PERSONAL CARE PROGRAM. EVERY RESIDENT'S CASE DISCUSSION, CONSULTATION, EXAMINATION AND TREATMENT SHALL BE CONFIDENTIAL AND SHALL BE CONDUCTED DISCREETLY, AND THOSE PERSONS NOT DIRECTLY INVOLVED IN THE RESIDENT'S CARE MUST HAVE HIS PERMISSION TO BE PRESENT. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.4230 Restraints

a) NEITHER PHYSICAL RESTRAINTS NOR CONFINEMENTS SHALL BE EMPLOYED FOR THE PURPOSE OF PUNISHMENT OR FOR THE CONVENIENCE OF ANY FACILITY PERSONNEL. NO PHYSICAL RESTRAINTS OR CONFINEMENTS SHALL BE EMPLOYED EXCEPT AS ORDERED BY A PHYSICIAN WHO DOCUMENTS THE NEED FOR SUCH

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## Section 330.4230(a) (continued)

RESTRAINTS OR CONFINEMENTS IN THE RESIDENT'S CLINICAL RECORD. (B, ~~C~~)

b) Restraints and confinements may be employed only when necessary to prevent a resident from injuring himself or others. The physician's written authorization shall specify the precise time periods and conditions in which any restraints and confinements shall be employed. (B, ~~C~~)

c) No chemical, medication or tranquilizer shall be employed by a facility as a restraint or confinement in lieu of or in addition to any physical restraint or confinement. Such chemicals, medications or tranquilizers may only be employed as part of a duly prescribed therapeutic medical treatment program authorized by the resident's physician and documented in the resident's clinical record. (B, ~~C~~)

d) No resident shall be subjected to any behavior modification program which utilizes restraints, confinements, or aversive stimuli of any nature unless and until the informed consent of such resident, resident's guardian, or parent of a minor resident has been obtained. (B, ~~C~~)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.4240 Abuse and Neglect

a) AN OWNER, LICENSEE, ADMINISTRATOR, EMPLOYEE OR AGENT OF A FACILITY SHALL NOT ABUSE OR NEGLECT A RESIDENT. (A, B, ~~C~~)

b) A FACILITY EMPLOYEE OR AGENT WHO BECOMES AWARE OF ABUSE OR NEGLECT OF A RESIDENT SHALL IMMEDIATELY REPORT THE MATTER TO THE FACILITY ADMINISTRATOR. ~~(C)~~

c) A FACILITY ADMINISTRATOR WHO BECOMES AWARE OF ABUSE OR NEGLECT OF A RESIDENT SHALL IMMEDIATELY REPORT THE MATTER BY TELEPHONE AND IN WRITING TO THE RESIDENT'S REPRESENTATIVE, OR IF HE IS NOT AVAILABLE THEN TO THE DEPARTMENT. ~~(C)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.4250 Communication and Visitation

a) EVERY RESIDENT SHALL BE PERMITTED UNIMPEDED, PRIVATE AND UNCENSORED

## Section 330.4250(a) (continued)

COMMUNICATION OF HIS CHOICE BY MAIL, PUBLIC TELEPHONE OR VISITATION.  
~~(G)~~

- b) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT CORRESPONDENCE IS CONVENIENTLY RECEIVED AND MAILED, AND THAT TELEPHONES ARE REASONABLY ACCESSIBLE. ~~(G)~~
- c) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT RESIDENTS MAY HAVE PRIVATE VISITS AT ANY REASONABLE HOUR UNLESS SUCH VISITS ARE NOT MEDICALLY ADVISABLE FOR THE RESIDENT AS DOCUMENTED IN THE RESIDENT'S CLINICAL RECORD BY THE RESIDENT'S PHYSICIAN. ~~(G)~~
- d) The facility shall allow daily visiting between 10 A.M. and 8 P.M. These visiting hours shall be posted in plain view of visitors. ~~(G)~~
- e) THE FACILITY ADMINISTRATOR SHALL ENSURE THAT SPACE FOR VISITS IS AVAILABLE AND THAT FACILITY PERSONNEL KNOCK ~~(G)~~ EXCEPT IN AN EMERGENCY, BEFORE ENTERING ANY RESIDENT'S ROOM. ~~(G)~~
- f) UNIMPEDED, PRIVATE AND UNCENSORED COMMUNICATION BY MAIL, PUBLIC TELEPHONE, AND VISITATION MAY BE REASONABLY RESTRICTED BY A PHYSICIAN ONLY IN ORDER TO PROTECT THE RESIDENT OR OTHERS FROM HARM, HARASSMENT OR INTIMIDATION PROVIDED THAT THE REASON FOR ANY SUCH RESTRICTION IS PLACED IN THE RESIDENT'S CLINICAL RECORD BY THE PHYSICIAN AND THAT NOTICE OF SUCH RESTRICTION SHALL BE GIVEN TO ALL RESIDENTS UPON ADMISSION. ~~(G)~~

g) NOTWITHSTANDING SECTION 330.4250(f) OF THIS SECTION ~~ABOVE~~ ALL LETTERS ADDRESSED BY A RESIDENT TO THE GOVERNOR, MEMBERS OF THE GENERAL ASSEMBLY, ATTORNEY GENERAL, JUDGES, STATE'S ATTORNEYS, OFFICERS OF THE DEPARTMENT, OR LICENSED ATTORNEYS AT LAW SHALL BE FORWARDED AT ONCE TO THE PERSONS TO WHOM THEY ARE ADDRESSED WITHOUT EXAMINATION BY FACILITY PERSONNEL. LETTERS IN REPLY FROM THE OFFICIALS AND ATTORNEYS MENTIONED ABOVE SHALL BE DELIVERED TO THE RECIPIENT WITHOUT EXAMINATION BY FACILITY PERSONNEL. ~~(G)~~

h) ANY EMPLOYEE OR AGENT OF A PUBLIC AGENCY, ANY REPRESENTATIVE OF A COMMUNITY LEGAL SERVICES PROGRAM OR ANY MEMBER OF A COMMUNITY ORGANIZATION SHALL BE PERMITTED ACCESS AT REASONABLE HOURS TO ANY INDIVIDUAL RESIDENT OF ANY FACILITY, IF THE PURPOSE OF SUCH AGENCY, PROGRAM OR ORGANIZATION INCLUDES RENDERING ASSISTANCE TO RESIDENTS WITHOUT CHARGE, BUT ONLY IF THERE IS NEITHER A COMMERCIAL PURPOSE NOR AFFECT TO SUCH ACCESS AND IF THE PURPOSE IS TO DO ANY OTHER THE FOLLOWING:

## Section 330.4250(h) (continued)

- 1) VISIT, TALK WITH AND MAKE PERSONAL, SOCIAL, AND LEGAL SERVICES AVAILABLE TO ALL RESIDENTS; ~~(G)~~
- 2) INFORM RESIDENTS OF THEIR RIGHTS AND ENTITLEMENTS AND THEIR CORRESPONDING OBLIGATIONS, UNDER FEDERAL AND STATE LAWS, BY MEANS OF EDUCATIONAL MATERIALS AND DISCUSSIONS IN GROUPS AND WITH INDIVIDUAL RESIDENTS; ~~(G)~~
- 3) ASSIST RESIDENTS IN ASSERTING THEIR LEGAL RIGHTS REGARDING CLAIMS FOR PUBLIC ASSISTANCE, MEDICAL ASSISTANCE AND SOCIAL SECURITY BENEFITS AS WELL AS IN ALL OTHER MATTERS IN WHICH RESIDENTS ARE AGGRIEVED. ASSISTANCE MAY INCLUDE COUNSELING AND LITIGATION; OR ~~(G)~~
- 4) ENGAGE IN OTHER METHODS OF ASSERTING, ADVISING AND REPRESENTING RESIDENTS SO AS TO EXTEND TO THEM FULL ENJOYMENT OF THEIR RIGHTS. ~~(G)~~
- i) NO VISITOR SHALL ENTER THE IMMEDIATE LIVING AREA OF ANY RESIDENT WITHOUT FIRST IDENTIFYING HIMSELF AND THEN RECEIVING PERMISSION FROM THE RESIDENT TO ENTER. THE RIGHTS OF OTHER RESIDENTS PRESENT IN THE ROOM SHALL BE RESPECTED. ~~(B-G)~~
- j) A RESIDENT MAY TERMINATE AT ANY TIME A VISIT BY A PERSON HAVING ACCESS TO THE RESIDENT'S LIVING AREA. ~~(G)~~

(Source: Amended at 13 Ill. Reg. ~~(G)~~, effective ~~(G)~~)

## Section 330.4260 Resident's Funds

- a) A RESIDENT SHALL BE PERMITTED TO MANAGE HIS OWN FINANCIAL AFFAIRS UNLESS HE OR HIS GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT, AUTHORIZES THE ADMINISTRATOR OF THE FACILITY IN WRITING TO MANAGE SUCH RESIDENT'S FINANCIAL AFFAIRS UNDER SUBSECTIONS (b) THROUGH (n) OF THIS SECTION. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-102)
- b) THE FACILITY SHALL AT THE TIME OF ADMISSION, PROVIDE, IN ORDER OF PRIORITY, EACH RESIDENT, OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, WITH A WRITTEN STATEMENT EXPLAINING THE RESIDENT'S RIGHTS REGARDING PERSONAL FUNDS AND LISTING THE SERVICES FOR WHICH THE RESIDENT WILL BE CHARGED, AND OBTAIN A SIGNED ACKNOWLEDGEMENT FROM EACH RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE



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## Section 330.4260(b) (continued)

RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, THAT SUCH PERSON HAS RECEIVED THE STATEMENT. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(1))

- c) THE FACILITY MAY ACCEPT FUNDS FROM A RESIDENT FOR SAFEKEEPING AND MANAGING, IF IT RECEIVES WRITTEN AUTHORIZATION FROM, IN ORDER OF PRIORITY, THE RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY; SUCH AUTHORIZATION SHALL BE ATTESTED TO BY A WITNESS WHO HAS NO PECUNIARY INTEREST IN THE FACILITY OR ITS OPERATIONS, AND WHO IS NOT CONNECTED IN ANY WAY TO FACILITY PERSONNEL OR THE ADMINISTRATOR IN ANY MANNER WHATSOEVER. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(2))

- d) THE FACILITY SHALL MAINTAIN AND ALLOW, IN ORDER OF PRIORITY, EACH RESIDENT OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, ACCESS TO A WRITTEN RECORD OF ALL FINANCIAL ARRANGEMENTS AND TRANSACTIONS INVOLVING THE INDIVIDUAL RESIDENT'S FUNDS. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(3))

- e) THE FACILITY SHALL PROVIDE, IN ORDER OF PRIORITY, EACH RESIDENT, OR THE RESIDENT'S GUARDIAN, IF ANY, OR THE RESIDENT'S REPRESENTATIVE, IF ANY, OR THE RESIDENT'S IMMEDIATE FAMILY MEMBER, IF ANY, WITH A WRITTEN ITEMIZED STATEMENT AT LEAST QUARTERLY, OF ALL FINANCIAL TRANSACTIONS INVOLVING THE RESIDENT'S FUNDS. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(4))

- f) THE FACILITY SHALL PURCHASE A SURETY BOND TO GUARANTEE THE SECURITY OF RESIDENT'S FUNDS. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(5))

- g) THE FACILITY SHALL KEEP ANY FUNDS RECEIVED FROM A RESIDENT FOR SAFEKEEPING IN AN ACCOUNT SEPARATE FROM THE FACILITY'S FUNDS, AND SHALL AT NO TIME WITHDRAW ANY PART OR ALL OF SUCH FUNDS FOR ANY PURPOSE OTHER THAN TO RETURN THE FUNDS TO THE RESIDENT UPON THE REQUEST OF THE RESIDENT OR ANY OTHER PERSON ENTITLED TO MAKE SUCH REQUEST, TO PAY THE RESIDENT HIS ALLOWANCE, OR TO MAKE ANY OTHER PAYMENT AUTHORIZED BY THE RESIDENT OR ANY OTHER PERSON ENTITLED TO MAKE SUCH AUTHORIZATION. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(6))

- h) THE FACILITY SHALL DEPOSIT ANY FUNDS RECEIVED FROM A RESIDENT IN EXCESS OF \$100 IN AN INTEREST BEARING ACCOUNT INSURED BY AGENCIES OF, OR CORPORATIONS CHARTERED BY, THE STATE OR FEDERAL GOVERNMENT. THE

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## Section 330.4260(h) (continued)

ACCOUNT SHALL BE IN A FORM WHICH CLEARLY INDICATES THAT THE FACILITY HAS ONLY A FIDUCIARY INTEREST IN THE FUNDS AND ANY INTEREST FROM THE ACCOUNT SHALL ACCRUE TO THE RESIDENT. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(7))

- i) THE FACILITY MAY KEEP UP TO \$100 OF A RESIDENT'S MONEY IN A NON-INTEREST BEARING ACCOUNT OR PETTY CASH FUND, TO BE READILY AVAILABLE FOR THE RESIDENT'S CURRENT EXPENDITURES. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(7))
- j) THE FACILITY SHALL RETURN TO THE RESIDENT, OR THE PERSON WHO EXECUTED THE WRITTEN AUTHORIZATION REQUIRED IN SUBSECTION (c) OF THIS SECTION, UPON WRITTEN REQUEST, ALL OR ANY PART OF THE RESIDENT'S FUNDS GIVEN THE FACILITY FOR SAFEKEEPING, INCLUDING THE INTEREST ACCRUED FROM DEPOSITS. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(8))
- k) THE FACILITY SHALL PLACE ANY MONTHLY ALLOWANCE TO WHICH A RESIDENT IS ENTITLED IN THAT RESIDENT'S PERSONAL ACCOUNT, OR GIVE IT TO THE RESIDENT, UNLESS THE FACILITY HAS WRITTEN AUTHORIZATION FROM THE RESIDENT OR THE RESIDENT'S GUARDIAN, OR IF THE RESIDENT IS A MINOR, HIS PARENT, TO HANDLE IT DIFFERENTLY. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(9))
- l) UNLESS OTHERWISE PROVIDED BY STATE LAW, THE FACILITY SHALL UPON THE DEATH OF A RESIDENT PROVIDE THE EXECUTOR OR ADMINISTRATOR OF THE RESIDENT'S ESTATE WITH A COMPLETE ACCOUNTING OF ALL THE RESIDENT'S PERSONAL PROPERTY, INCLUDING ANY FUNDS OF THE RESIDENT BEING HELD BY THE FACILITY. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(10))
- m) IF AN ADULT RESIDENT IS INCAPABLE OF MANAGING HIS FUNDS AND DOES NOT HAVE A RESIDENT'S REPRESENTATIVE, GUARDIAN, OR AN IMMEDIATE FAMILY MEMBER THE FACILITY SHALL NOTIFY THE OFFICE OF THE STATE GUARDIAN OF THE GUARDIANSHIP AND ADVOCACY COMMISSION. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(11))
- n) IF THE FACILITY IS SOLD, THE SELLER SHALL PROVIDE THE BUYER WITH A WRITTEN VERIFICATION BY A PUBLIC ACCOUNTANT OF ALL RESIDENTS' MONIES AND PROPERTIES BEING TRANSFERRED, AND OBTAIN A SIGNED RECEIPT FROM THE NEW OWNER. ~~(G)~~ (111. Rev. Stat. 1985-1987, ch. 111 1/2, par. 4152-201(12))

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 330.4270 Residents' Advisory Council

Each resident shall have the right to participate in a residents' advisory council as indicated in Section 330.740(a) through (1). ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.4280 Contract With Facility

Each resident shall have the right to contract with the facility as indicated in Section 330.730(a) through (s). ~~(c)~~

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

## Section 330.4290 Private Right of Action

- a) EACH RESIDENT SHALL HAVE THE RIGHT TO MAINTAIN A PRIVATE RIGHT OF ACTION AGAINST A FACILITY AS DESCRIBED IN Section 330.4290 (b) through (1) of this Section ~~below~~.
- b) THE OWNER AND LICENSEE OF A FACILITY ARE LIABLE TO A RESIDENT FOR ANY INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF THEIR AGENTS OR EMPLOYEES WHICH INJURES THE RESIDENT.
- c) THE LICENSEE SHALL PAY ~~3~~ THREE TIMES THE ACTUAL DAMAGES, OR \$500, WHICHEVER IS GREATER, AND COSTS AND ATTORNEY'S FEES TO A FACILITY RESIDENT WHOSE RIGHTS AS SPECIFIED IN PART I OF ARTICLE II OF THE ACT ARE VIOLATED.
- d) A RESIDENT MAY MAINTAIN AN ACTION UNDER THIS ACT AND THESE RULES FOR ANY OTHER TYPE OF RELIEF, INCLUDING INJUNCTIVE AND DECLARATORY RELIEF, PERMITTED BY LAW.
- e) ANY DAMAGES RECOVERABLE UNDER Section 330.4290 (b) through (1), INCLUDING MINIMUM DAMAGES AS PROVIDED BY THESE RULES, MAY BE RECOVERED IN ANY ACTION WHICH A COURT MAY AUTHORIZE TO BE BROUGHT AS A CLASS ACTION PURSUANT TO THE CIVIL PRACTICE LAW (Ill. Rev. Stat. ~~1983~~ 1987, ch. 110, pars. 2-101 et seq.). THE REMEDIES PROVIDED IN Section 330.4290 (b) through (1) ARE IN ADDITION TO AND CUMULATIVE WITH ANY OTHER LEGAL REMEDIES AVAILABLE TO A RESIDENT. EXHAUSTION OF ANY AVAILABLE ADMINISTRATIVE REMEDIES SHALL NOT BE REQUIRED PRIOR TO COMMENCEMENT OF A SUIT HEREUNDER.
- f) THE AMOUNT OF DAMAGES RECOVERED BY A RESIDENT IN AN ACTION BROUGHT UNDER Section 330.4290 (b) through (1) SHALL BE EXEMPT FOR PURPOSES

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## Section 330.4290(f) (continued)

OF DETERMINING INITIAL OR CONTINUING ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER THE ILLINOIS PUBLIC AID CODE (Ill. Rev. Stat. ~~1983~~ 1987, ch. 23, pars. 1-1 et seq.), AS NOW OR HEREAFTER AMENDED, AND SHALL NEITHER BE TAKEN INTO CONSIDERATION NOT REQUIRED TO BE APPLIED TOWARD THE PAYMENT OR PARTIAL PAYMENT OF THE COST OF MEDICAL CARE OR SERVICES AVAILABLE UNDER THE ILLINOIS PUBLIC AID CODE.

- g) ANY WAIVER BY A RESIDENT OR HIS LEGAL REPRESENTATIVE OF THE RIGHT TO COMMENCE AN ACTION UNDER Section 330.4290 (b) through (1), WHETHER ORAL OR IN WRITING, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT.
  - h) ANY PARTY TO AN ACTION BROUGHT UNDER SECTION 330.4290 (b) through (1) SHALL BE ENTITLED TO A TRIAL BY JURY AND ANY WAIVER OF THE RIGHT TO A TRIAL BY JURY, WHETHER ORAL OR IN WRITING, PRIOR TO THE COMMENCEMENT OF AN ACTION, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT.
  - i) A LICENSEE OR ITS AGENTS OR EMPLOYEES SHALL NOT TRANSFER, DISCHARGE, EVICT, HARASS, DISMISS, OR RETALIATE AGAINST A RESIDENT, A RESIDENT'S REPRESENTATIVE, OR AN EMPLOYEE OR AGENT WHO MAKES A REPORT OF RESIDENT ABUSE OR NEGLECT, BRINGS OR TESTIFIES IN A PRIVATE RIGHT OF ACTION, OR FILES A COMPLAINT, BECAUSE OF THE SUCH ACTION OR TESTIMONY. ~~(8, 6)~~
- (Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)
- Section 330.4300 Transfer and/or Discharge
- a) A RESIDENT MAY BE VOLUNTARILY DISCHARGED FROM A FACILITY AFTER HE GIVES THE ADMINISTRATOR, A PHYSICIAN, OR A NURSE OF THE FACILITY WRITTEN NOTICE OF HIS DESIRE TO BE DISCHARGED. IF A GUARDIAN HAS BEEN APPOINTED FOR A RESIDENT OR IF THE RESIDENT IS A MINOR, THE RESIDENT SHALL BE DISCHARGED UPON WRITTEN CONSENT OF HIS GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT UNLESS THERE IS A COURT ORDER TO THE CONTRARY. IN SUCH CASES, UPON THE RESIDENT'S DISCHARGE, THE FACILITY IS RELIEVED FROM ANY RESPONSIBILITY FOR THE RESIDENT'S CARE, SAFETY OR WELL-BEING. ~~(6)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4152-111)
  - b) Each resident's rights regarding involuntary transfer or discharge from a facility shall be as described in subsections (c) through (y) of this Section.



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## Section 330.4300 (continued)

## c) Reasons for Transfer or Discharge

- 1) A FACILITY MAY INVOLUNTARILY TRANSFER OR DISCHARGE A RESIDENT ONLY FOR ONE OR MORE OF THE FOLLOWING REASONS: ~~SHALL NOT INVOLUNTARILY TRANSFER OR DISCHARGE A RESIDENT EXCEPT~~

- A) FOR MEDICAL REASONS. ~~—~~
- B) FOR THE RESIDENT'S PHYSICAL SAFETY. ~~OR~~
- C) FOR THE PHYSICAL SAFETY OF OTHER RESIDENTS, THE FACILITY STAFF OR FACILITY VISITORS. ~~—OR~~
- D) FOR EITHER LATE PAYMENT OR NONPAYMENT FOR THE RESIDENT'S STAY, EXCEPT AS PROHIBITED BY TITLE XVIII AND XIX OF THE FEDERAL SOCIAL SECURITY ACT. FOR PURPOSES OF THIS SECTION, "LATE PAYMENT" MEANS NON-RECEIPT OF PAYMENT AFTER SUBMISSION OF A BILL. IF PAYMENT IS NOT RECEIVED WITHIN 45 DAYS AFTER SUBMISSION OF A BILL, THE FACILITY MAY SEND A NOTICE TO THE RESIDENT AND RESPONSIBLE PARTY REQUESTING PAYMENT WITHIN 30 DAYS. IF PAYMENT IS NOT RECEIVED WITHIN SUCH 30 DAYS, THE FACILITY MAY THEREUPON INSTITUTE TRANSFER OR DISCHARGE PROCEEDINGS BY SENDING A NOTICE OF TRANSFER OR DISCHARGE TO THE RESIDENT AND RESPONSIBLE PARTY BY REGISTERED OR CERTIFIED MAIL. THE NOTICE SHALL STATE, IN ADDITION TO THE REQUIREMENTS OF SECTION 3-403 OF THE ACT and subsection (e) of this Section, THAT THE RESPONSIBLE PARTY HAS THE RIGHT TO PAY THE AMOUNT OF THE BILL IN FULL UP TO THE DATE THE TRANSFER OR DISCHARGE IS TO BE MADE AND THEN THE RESIDENT SHALL HAVE THE RIGHT TO REMAIN IN THE FACILITY. SUCH PAYMENT SHALL TERMINATE THE TRANSFER OR DISCHARGE PROCEEDINGS. THIS SUBSECTION DOES NOT APPLY TO THOSE RESIDENTS WHOSE CARE IS PROVIDED UNDER THE ILLINOIS PUBLIC AID CODE. (8-6-) (Ill. Rev. Stat. 1987 ~~1985~~, ch. 111 1/2, par. 4153-401)

## 2) Prohibition of Discrimination

- ~~1) A) A FACILITY PARTICIPATING IN THE MEDICAL ASSISTANCE PROGRAM IS PROHIBITED FROM FAILING OR REFUSING TO RETAIN AS A RESIDENT ANY PERSON BECAUSE THE RESIDENT IS A RECIPIENT OF OR AN APPLICANT FOR THE MEDICAL ASSISTANCE PROGRAM. FOR THE PURPOSES OF THIS SECTION, A RECIPIENT OR APPLICANT SHALL BE CONSIDERED A RESIDENT IN THE FACILITY DURING ANY HOSPITAL STAY TOTALING TEN DAYS OR LESS FOLLOWING A~~

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## Section 330.4300(c)(2)(A) (continued)

HOSPITAL ADMISSION. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-401.1(a)).

- ~~2) B) A FACILITY WHICH VIOLATES SUBSECTION (c)(2)(A) ~~(1)~~ OF THIS SECTION SHALL BE GUILTY OF A BUSINESS OFFENSE AND FINED NOT LESS THAN \$500 NOR MORE THAN \$1,000 FOR THE FIRST OFFENSE AND NOT LESS THAN \$1,000 NOR MORE THAN \$5,000 FOR EACH SUBSEQUENT OFFENSE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-401.1(b))~~

- d) INVOLUNTARY TRANSFER OR DISCHARGE OF A RESIDENT FROM A FACILITY SHALL BE PRECEDED BY THE DISCUSSION REQUIRED UNDER SUBSECTION (3) OF THIS SECTION AND BY A MINIMUM WRITTEN NOTICE OF 21 DAYS. THE 21-DAY REQUIREMENT SHALL NOT APPLY IN ANY OF THE FOLLOWING INSTANCES:

- 1) WHEN AN EMERGENCY TRANSFER OR DISCHARGE IS MANDATED BY THE RESIDENT'S HEALTH CARE NEEDS AND IS IN ACCORD WITH THE WRITTEN ORDERS AND MEDICAL JUSTIFICATION OF THE ATTENDING PHYSICIAN; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-402(a))
- 2) WHEN THE TRANSFER OR DISCHARGE IS MANDATED BY THE PHYSICAL SAFETY OF OTHER RESIDENTS AS DOCUMENTED IN THE CLINICAL RECORD. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-402(b))
- e) THE NOTICE REQUIRED BY SUBSECTION (d) OF THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND SHALL CONTAIN ALL OF THE FOLLOWING:
- 1) THE STATED REASON FOR THE PROPOSED TRANSFER OR DISCHARGE; ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(a))
- 2) THE EFFECTIVE DATE OF THE PROPOSED TRANSFER OR DISCHARGE; ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(b))
- 3) A STATEMENT IN NOT LESS THAN 12-POINT TYPE, WHICH READS: "YOU HAVE A RIGHT TO APPEAL THE FACILITY'S DECISION TO TRANSFER OR DISCHARGE YOU. IF YOU THINK YOU SHOULD NOT HAVE TO LEAVE THIS FACILITY, YOU MAY FILE A REQUEST FOR A HEARING WITH THE DEPARTMENT OF PUBLIC HEALTH WITHIN ~~10~~ TEN DAYS AFTER RECEIVING THIS NOTICE. IF YOU REQUEST A HEARING, IT WILL BE

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## Section 330.4300(e)(3) (continued)

HELD NOT LATER THAN TEN ~~(10)~~ DAYS AFTER YOUR REQUEST, AND YOU GENERALLY WILL NOT BE TRANSFERRED OR DISCHARGED DURING THAT TIME. IF THE DECISION FOLLOWING THE HEARING IS NOT IN YOUR FAVOR, YOU GENERALLY WILL NOT BE TRANSFERRED OR DISCHARGED PRIOR TO THE EXPIRATION OF 30 DAYS FOLLOWING RECEIPT OF THE ORIGINAL NOTICE OF THE TRANSFER OR DISCHARGE. A FORM TO APPEAL THE FACILITY'S DECISION AND TO REQUEST A HEARING IS ATTACHED. IF YOU HAVE ANY QUESTIONS, CALL THE DEPARTMENT OF PUBLIC HEALTH AT THE TELEPHONE NUMBER LISTED BELOW." ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(c))

4) A HEARING REQUEST FORM, TOGETHER WITH A POSTAGE PAID, PREADDRESSED ENVELOPE TO THE DEPARTMENT; AND ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(d))

5) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON CHARGED WITH THE RESPONSIBILITY OF SUPERVISING THE TRANSFER OR DISCHARGE. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-403(e))

f) A REQUEST FOR A HEARING MADE UNDER SUBSECTION (e) OF THIS SECTION SHALL STAY A TRANSFER PENDING A HEARING OR APPEAL OF THE DECISION, UNLESS A CONDITION WHICH WOULD HAVE ALLOWED TRANSFER OR DISCHARGE IN LESS THAN 21 DAYS AS DESCRIBED UNDER SUBSECTIONS (d)(1) AND (2) OF THIS SECTION DEVELOPS IN THE INTERIM. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-404)

g) A COPY OF THE NOTICE REQUIRED BY SUBSECTION (d) OF THIS SECTION SHALL BE PLACED IN THE RESIDENT'S CLINICAL RECORD AND A COPY SHALL BE TRANSMITTED TO THE DEPARTMENT. THE RESIDENT, THE RESIDENT'S REPRESENTATIVE, AND, IF THE RESIDENT'S CARE IS PAID FOR IN WHOLE OR PART THROUGH TITLE XIX, TO THE DEPARTMENT OF PUBLIC AID. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-405)

h) WHEN THE BASIS FOR AN INVOLUNTARY TRANSFER OR DISCHARGE IS THE RESULT OF AN ACTION BY THE DEPARTMENT OF PUBLIC AID WITH RESPECT TO A RECIPIENT OF TITLE XIX AND A HEARING REQUEST IS FILED WITH THE DEPARTMENT OF PUBLIC AID, THE 21-DAY WRITTEN NOTICE PERIOD SHALL BEGIN UNTIL A FINAL DECISION IN THE MATTER IS RENDERED BY THE DEPARTMENT OF PUBLIC AID OR A COURT OF COMPETENT JURISDICTION AND NOTICE OF THAT FINAL DECISION IS RECEIVED BY THE RESIDENT AND THE FACILITY. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-406)

i) WHEN NONPAYMENT IS THE BASIS FOR INVOLUNTARY TRANSFER OR DISCHARGE, THE RESIDENT SHALL HAVE THE RIGHT TO REDEEM UP TO THE DATE THAT THE

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## Section 330.4300(i) (continued)

DISCHARGE OR TRANSFER IS TO BE MADE AND THEN SHALL HAVE THE RIGHT TO REMAIN IN THE FACILITY. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-407)

j) THE PLANNED INVOLUNTARY TRANSFER OR DISCHARGE SHALL BE DISCUSSED WITH THE RESIDENT, THE RESIDENT'S REPRESENTATIVE AND PERSON OR AGENCY RESPONSIBLE FOR THE RESIDENT'S PLACEMENT, MAINTENANCE, AND CARE IN THE FACILITY. THE EXPLANATION AND DISCUSSION OF THE REASONS FOR INVOLUNTARY TRANSFER OR DISCHARGE SHALL INCLUDE THE FACILITY ADMINISTRATOR OR OTHER APPROPRIATE FACILITY REPRESENTATIVE AS THE ADMINISTRATOR'S DESIGNEE. THE CONTENT OF THE DISCUSSION AND EXPLANATION SHALL BE SUMMARIZED IN WRITING AND SHALL INCLUDE THE NAMES OF THE INDIVIDUALS INVOLVED IN THE DISCUSSIONS AND MADE A PART OF THE RESIDENT'S CLINICAL RECORD. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-408)

k) THE FACILITY SHALL OFFER THE RESIDENT COUNSELING SERVICES BEFORE THE TRANSFER OR DISCHARGE OF THE RESIDENT. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-409)

l) A RESIDENT SUBJECT TO INVOLUNTARY TRANSFER OR DISCHARGE FROM A FACILITY, THE RESIDENT'S GUARDIAN OR IF THE RESIDENT IS A MINOR, HIS PARENT SHALL HAVE THE OPPORTUNITY TO FILE A REQUEST FOR A HEARING WITH THE DEPARTMENT WITHIN ~~10~~ TEN DAYS FOLLOWING RECEIPT OF THE WRITTEN NOTICE OF THE INVOLUNTARY TRANSFER OR DISCHARGE BY THE FACILITY. ~~(G)~~ (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-410)

m) THE DEPARTMENT OF PUBLIC HEALTH, WHEN THE BASIS FOR INVOLUNTARY TRANSFER OR DISCHARGE IS OTHER THAN ACTION BY THE DEPARTMENT OF PUBLIC AID WITH RESPECT TO THE TITLE XIX MEDICAID RECIPIENT, SHALL HOLD A HEARING AT THE RESIDENT'S FACILITY NOT LATER THAN TEN ~~(10)~~ DAYS AFTER A HEARING REQUEST IS FILED, AND RENDER A DECISION WITHIN 14 DAYS AFTER THE FILING OF THE HEARING REQUEST. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-411)

n) THE HEARING BEFORE THE DEPARTMENT PROVIDED UNDER SUBSECTION (m) OF THIS SECTION SHALL BE CONDUCTED AS PRESCRIBED UNDER SECTIONS 3-703 THRU 3-712 OF THE ACT (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 4153-703 through 4153-712). IN DETERMINING WHETHER A TRANSFER OR DISCHARGE IS AUTHORIZED, THE BURDEN OF PROOF IN THIS HEARING RESTS ON THE PERSON REQUESTING THE TRANSFER OR DISCHARGE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-412)

o) IF THE DEPARTMENT DETERMINES THAT A TRANSFER OR DISCHARGE IS



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## Section 330.4300(c) (continued)

AUTHORIZED UNDER SUBSECTION (c) OF THIS SECTION, THE RESIDENT SHALL NOT BE REQUIRED TO LEAVE THE FACILITY BEFORE THE 34th DAY FOLLOWING RECEIPT OF THE NOTICE REQUIRED UNDER SUBSECTION (d) OF THIS SECTION, OR THE ~~10TH~~ TENTH DAY FOLLOWING RECEIPT OF THE DEPARTMENT'S DECISION, WHICHEVER IS LATER, UNLESS A CONDITION WHICH WOULD HAVE ALLOWED TRANSFER OR DISCHARGE IN LESS THAN 21 DAYS AS DESCRIBED UNDER SUBSECTIONS (d)(1) AND (2) OF THIS SECTION DEVELOPS IN THE INTERIM. (B--C--)(Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-413)

p) THE DEPARTMENT OF PUBLIC AID SHALL CONTINUE TITLE XIX MEDICAID FUNDING DURING THE APPEAL, TRANSFER, OR DISCHARGE PERIOD FOR THOSE RESIDENTS WHO ARE TITLE XIX RECIPIENTS AFFECTED BY SUBSECTION (c) OF THIS SECTION. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-414)

q) THE DEPARTMENT MAY TRANSFER OR DISCHARGE ANY RESIDENT FROM ANY FACILITY REQUIRED TO BE LICENSED UNDER THIS ACT WHEN ANY OF THE FOLLOWING CONDITIONS EXIST:

- 1) SUCH FACILITY IS OPERATING WITHOUT A LICENSE; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(a))
- 2) THE DEPARTMENT HAS SUSPENDED, REVOKED OR REFUSED TO RENEW THE LICENSE OF THE FACILITY AS PROVIDED UNDER SECTION 3-119 OF THE ACT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(b))
- 3) THE FACILITY HAS REQUESTED THE AID OF THE DEPARTMENT IN THE TRANSFER OR DISCHARGE OF THE RESIDENT AND THE DEPARTMENT FINDS THAT THE RESIDENT CONSENTS TO TRANSFER OR DISCHARGE; (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(c))
- 4) THE FACILITY IS CLOSING OR INTENDS TO CLOSE AND ADEQUATE ARRANGEMENT FOR RELOCATION OF THE RESIDENT HAS NOT BEEN MADE AT LEAST 30 DAYS PRIOR TO CLOSURE; OR (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(d))
- 5) THE DEPARTMENT DETERMINES THAT AN EMERGENCY EXISTS WHICH REQUIRES IMMEDIATE TRANSFER OR DISCHARGE OF THE RESIDENT. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-415(e))
- r) IN DECIDING TO TRANSFER OR DISCHARGE A RESIDENT FROM A FACILITY UNDER SUBSECTION (q) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER THE LIKELIHOOD OF SERIOUS HARM WHICH MAY RESULT IF THE RESIDENT REMAINS

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## Section 330.4300(r) (continued)

IN THE FACILITY. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-416)

- s) THE DEPARTMENT SHALL OFFER TRANSFER OR DISCHARGE AND RELOCATION ASSISTANCE TO RESIDENTS TRANSFERRED OR DISCHARGED UNDER SUBSECTIONS (c) THROUGH (q) OF THIS SECTION INCLUDING INFORMATION ON AVAILABLE ALTERNATIVE PLACEMENTS. RESIDENTS SHALL BE INVOLVED IN PLANNING THE TRANSFER OR DISCHARGE AND SHALL CHOOSE AMONG THE AVAILABLE ALTERNATIVE PLACEMENTS, EXCEPT THAT WHERE AN EMERGENCY MAKES PRIOR RESIDENT INVOLVEMENT IMPOSSIBLE, THE DEPARTMENT MAY MAKE A TEMPORARY PLACEMENT UNTIL A FINAL PLACEMENT CAN BE ARRANGED. RESIDENTS MAY CHOOSE THEIR FINAL ALTERNATIVE PLACEMENT AND SHALL BE GIVEN ASSISTANCE IN TRANSFERRING TO SUCH PLACE. NO RESIDENT MAY BE FORCED TO REMAIN IN A TEMPORARY OR PERMANENT PLACEMENT. WHERE THE DEPARTMENT MAKES OR PARTICIPATES IN MAKING THE RELOCATION DECISION, CONSIDERATION SHALL BE GIVEN TO PROXIMITY TO THE RESIDENT'S RELATIVES AND FRIENDS. THE RESIDENT SHALL BE ALLOWED ~~3~~ THREE VISITS TO POTENTIAL ALTERNATIVE PLACEMENTS PRIOR TO REMOVAL, EXCEPT WHERE MEDICALLY CONTRAINDICATED OR WHERE THE NEED FOR IMMEDIATE TRANSFER OR DISCHARGE REQUIRES REDUCTION IN THE NUMBER OF VISITS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-417)
- t) THE DEPARTMENT SHALL PREPARE RESIDENT TRANSFER OR DISCHARGE PLANS TO ASSURE SAFE AND ORDERLY REMOVALS AND PROTECT RESIDENTS' HEALTH, SAFETY, WELFARE AND RIGHTS. IN NONEMERGENCIES AND WHERE POSSIBLE IN EMERGENCIES, THE DEPARTMENT SHALL DESIGN AND IMPLEMENT SUCH PLANS IN ADVANCE OF TRANSFER OR DISCHARGE. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-418)
- u) THE DEPARTMENT MAY PLACE RELOCATION TEAMS IN ANY FACILITY FROM WHICH RESIDENTS ARE BEING DISCHARGED OR TRANSFERRED FOR ANY REASON, FOR THE PURPOSE OF IMPLEMENTING TRANSFER OR DISCHARGE PLANS. (Ill. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-419)
- v) IN ANY TRANSFER OR DISCHARGE CONDUCTED UNDER SUBSECTIONS (q) THROUGH (t) OF THIS SECTION THE DEPARTMENT SHALL:
  - 1) PROVIDE WRITTEN NOTICE TO THE FACILITY PRIOR TO THE TRANSFER OR DISCHARGE. THE NOTICE SHALL STATE THE BASIS FOR THE ORDER OF TRANSFER OR DISCHARGE AND SHALL INFORM THE FACILITY OF ITS RIGHT TO AN INFORMAL CONFERENCE PRIOR TO TRANSFER OR DISCHARGE UNDER THIS SECTION, AND ITS RIGHT TO A SUBSEQUENT HEARING UNDER SUBSECTION (x) OF THIS SECTION. IF A FACILITY DESIRES TO CONTEST A NONEMERGENCY TRANSFER OR DISCHARGE, PRIOR TO TRANSFER OR DISCHARGE IT SHALL, WITHIN FOUR ~~(4)~~ WORKING DAYS AFTER

## Section 330.4300(v)(1) (continued)

RECEIPT OF THE NOTICE, SEND A WRITTEN REQUEST FOR AN INFORMAL CONFERENCE TO THE DEPARTMENT. THE DEPARTMENT SHALL, WITHIN FOUR ~~(4)~~ WORKING DAYS FROM THE RECEIPT OF THE REQUEST, HOLD AN INFORMAL CONFERENCE IN THE COUNTY IN WHICH THE FACILITY IS LOCATED. FOLLOWING THIS CONFERENCE, THE DEPARTMENT MAY AFFIRM, MODIFY OR OVERRULE ITS PREVIOUS DECISION. EXCEPT IN AN EMERGENCY, TRANSFER OR DISCHARGE MAY NOT BEGIN UNTIL THE PERIOD FOR REQUESTING A CONFERENCE HAS PASSED OR, IF A CONFERENCE IS REQUESTED, UNTIL AFTER A CONFERENCE HAS BEEN HELD; AND (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-420(a))

2) PROVIDE WRITTEN NOTICE TO ANY RESIDENT TO BE REMOVED, TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE, PRIOR TO THE REMOVAL. THE NOTICE SHALL STATE THE REASON FOR WHICH TRANSFER OR DISCHARGE IS ORDERED AND SHALL INFORM THE RESIDENT OF THE RESIDENT'S RIGHT TO CHALLENGE THE TRANSFER OR DISCHARGE UNDER SUBSECTION (x) OF THIS SECTION. THE DEPARTMENT SHALL HOLD AN INFORMAL CONFERENCE WITH THE RESIDENT OR THE RESIDENT'S REPRESENTATIVE PRIOR TO TRANSFER OR DISCHARGE AT WHICH THE RESIDENT OR THE REPRESENTATIVE MAY PRESENT ANY OBJECTIONS TO THE PROPOSED TRANSFER OR DISCHARGE PLAN OR ALTERNATIVE PLACEMENT. (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-420(b))

w) IN ANY TRANSFER OR DISCHARGE CONDUCTED UNDER SUBSECTION (q)(5) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE FACILITY AND ANY RESIDENT TO BE REMOVED THAT AN EMERGENCY HAS BEEN FOUND TO EXIST AND REMOVAL HAS BEEN ORDERED, AND SHALL INVOLVE THE RESIDENTS IN REMOVAL PLANNING IF POSSIBLE. FOLLOWING EMERGENCY REMOVAL, THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO THE FACILITY, TO THE RESIDENT, TO THE RESIDENT'S REPRESENTATIVE, IF ANY, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE, OF THE BASIS FOR THE FINDING THAT AN EMERGENCY EXISTED AND OF THE RIGHT TO CHALLENGE REMOVAL UNDER SUBSECTION (x) OF THIS SECTION. (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-421)

x) WITHIN ~~10~~ TEN DAYS FOLLOWING TRANSFER OR DISCHARGE, THE FACILITY OR ANY RESIDENT TRANSFERRED OR DISCHARGED MAY SEND A WRITTEN REQUEST TO THE DEPARTMENT FOR A HEARING UNDER SECTION 3-703 OF THE ACT (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-703) TO CHALLENGE THE TRANSFER OR DISCHARGE. THE DEPARTMENT SHALL HOLD THE HEARING WITHIN 30 DAYS OF RECEIPT OF THE REQUEST. WHERE A CHALLENGE IS BY A RESIDENT, THE HEARING SHALL BE HELD AT A LOCATION CONVENIENT TO THE RESIDENT. IF THE FACILITY PREVAILS, IT MAY FILE A CLAIM AGAINST THE STATE UNDER THE "COURT OF CLAIMS ACT" FOR PAYMENTS LOSS LESS EXPENSES

## Section 330.4300(x) (continued)

SAVED AS A RESULT OF THE TRANSFER OR DISCHARGE. NO RESIDENT TRANSFERRED OR DISCHARGED MAY BE HELD LIABLE FOR THE CHARGE FOR CARE WHICH WOULD HAVE BEEN MADE HAD THE RESIDENT REMAINED IN THE FACILITY. IF A RESIDENT PREVAILS, THE RESIDENT MAY FILE A CLAIM AGAINST THE STATE UNDER THE "COURT OF CLAIMS ACT" (11. Rev. Stat. ~~1985~~ 1987, ch. 37, pars. 439.1 et seq.) FOR ANY EXCESS EXPENSES DIRECTLY CAUSED BY THE ORDER TO TRANSFER OR DISCHARGE. THE DEPARTMENT SHALL ASSIST THE RESIDENT IN RETURNING TO THE FACILITY IF ASSISTANCE IS REQUESTED. (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-422)

y) ANY OWNER OF A FACILITY LICENSED UNDER THIS ACT SHALL GIVE 90 DAYS NOTICE PRIOR TO VOLUNTARILY CLOSING A FACILITY OR CLOSING ANY PART OF A FACILITY, OR PRIOR TO CLOSING ANY PART OF A FACILITY IF CLOSING SUCH PART WILL REQUIRE THE TRANSFER OR DISCHARGE OF MORE THAN ~~10%~~ TEN PERCENT OF THE RESIDENTS. SUCH NOTICE SHALL BE GIVEN TO THE DEPARTMENT, TO ANY RESIDENT WHO MUST BE TRANSFERRED OR DISCHARGED, TO THE RESIDENT'S REPRESENTATIVE, AND TO A MEMBER OF THE RESIDENT'S FAMILY, WHERE PRACTICABLE. NOTICE SHALL STATE THE PROPOSED DATE OF CLOSING AND THE REASON FOR CLOSING. THE FACILITY SHALL OFFER TO ASSIST THE RESIDENT IN SECURING AN ALTERNATIVE PLACEMENT AND SHALL ADVISE THE RESIDENT ON AVAILABLE ALTERNATIVES. WHERE THE RESIDENT IS UNABLE TO CHOOSE AN ALTERNATE PLACEMENT AND IS NOT UNDER GUARDIANSHIP, THE DEPARTMENT SHALL BE NOTIFIED OF THE NEED FOR RELOCATION ASSISTANCE. THE FACILITY SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS UNTIL THE DATE OF CLOSING, INCLUDING THOSE RELATED TO TRANSFER OR DISCHARGE OF RESIDENTS. THE DEPARTMENT MAY PLACE A RELOCATION TEAM IN THE FACILITY AS PROVIDED UNDER SUBSECTION (u) OF THIS SECTION. (A, B, ~~6~~) (11. Rev. Stat. ~~1985~~ 1987, ch. 111 1/2, par. 4153-423)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.4310 Complaint Procedures

- a) A RESIDENT SHALL BE PERMITTED TO PRESENT GRIEVANCES ON BEHALF OF HIMSELF AND OTHERS TO THE ADMINISTRATOR, THE LONG-TERM CARE FACILITY ADVISORY BOARD, THE RESIDENTS' ADVISORY COUNCIL, STATE GOVERNMENTAL AGENCIES OR OTHER PERSONS WITHOUT THREAT OF DISCHARGE OR REPRISAL IN ANY FORM OR MANNER WHATSOEVER. ~~(6)~~
- b) THE FACILITY ADMINISTRATOR SHALL PROVIDE ALL RESIDENTS OR THEIR REPRESENTATIVES WITH THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE APPROPRIATE STATE GOVERNMENTAL OFFICE WHERE COMPLAINTS MAY BE



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## NOTICE OF PROPOSED AMENDMENTS

## Section 330.4310(b) (continued)

LODGED. ~~(G)~~

c) A PERSON WHO BELIEVES THAT THE ACT OR A RULE PROMULGATED UNDER THE ACT MAY HAVE BEEN VIOLATED MAY REQUEST AN INVESTIGATION. THE REQUEST MAY BE SUBMITTED TO THE DEPARTMENT IN WRITING, BY TELEPHONE, OR BY PERSONAL VISIT. AN ORAL COMPLAINT SHALL BE REDUCED TO WRITING BY THE DEPARTMENT.

d) THE SUBSTANCE OF THE COMPLAINT SHALL BE PROVIDED TO THE LICENSEE, OWNER OR ADMINISTRATOR NO EARLIER THAN AT THE COMMENCEMENT OF THE ON-SITE INSPECTION OF THE FACILITY WHICH TAKES PLACE PURSUANT TO THE COMPLAINT.

e) THE DEPARTMENT SHALL NOT DISCLOSE THE NAME OF THE COMPLAINANT UNLESS THE COMPLAINANT CONSENTS IN WRITING TO THE DISCLOSURE OR THE INVESTIGATION RESULTS IN A JUDICIAL PROCEEDING, OR UNLESS DISCLOSURE IS ESSENTIAL TO THE INVESTIGATION. THE COMPLAINANT SHALL BE GIVEN THE OPPORTUNITY TO WITHDRAW THE COMPLAINT BEFORE DISCLOSURE. UPON THE REQUEST OF THE COMPLAINANT, THE DEPARTMENT MAY PERMIT THE COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT TO ACCOMPANY THE PERSON MAKING THE ON-SITE INSPECTION OF THE FACILITY.

f) UPON RECEIPT OF A COMPLAINT, THE DEPARTMENT SHALL DETERMINE WHETHER THE ACT OR A RULE PROMULGATED UNDER THE ACT HAS BEEN OR IS BEING VIOLATED. THE DEPARTMENT SHALL INVESTIGATE ALL COMPLAINTS ALLEGING ABUSE OR NEGLECT WITHIN ~~7~~ SEVEN DAYS AFTER THE RECEIPT OF THE COMPLAINT EXCEPT THE COMPLAINTS OF ABUSE OR NEGLECT WHICH INDICATE THAT A RESIDENT'S LIFE OR SAFETY IS IN IMMINENT DANGER SHALL BE INVESTIGATED WITH 24 HOURS AFTER RECEIPT OF THE COMPLAINT. ALL OTHER COMPLAINTS SHALL BE INVESTIGATED WITHIN 30 DAYS AFTER THE RECEIPT OF THE COMPLAINT. ALL COMPLAINTS SHALL BE CLASSIFIED AS "VALID" OR "INVALID". FOR ANY COMPLAINT CLASSIFIED AS "VALID", THE DEPARTMENT MUST DETERMINE WITHIN 30 WORKING DAYS IF ANY RULE OR PROVISION OF THIS ACT HAS BEEN OR IS BEING VIOLATED.

g) UPON THE REQUEST OF A RESIDENT OR COMPLAINANT, THE DEPARTMENT MAY PERMIT THE RESIDENT OR COMPLAINANT OR A REPRESENTATIVE OF THE COMPLAINANT TO ACCOMPANY THE PERSON MAKING THE ON-SITE INSPECTION OF THE FACILITY PURSUANT TO THE COMPLAINT.

h) IN ALL CASES, THE DEPARTMENT SHALL INFORM THE COMPLAINANT OF ITS FINDINGS WITHIN ~~10~~ TEN DAYS OF ITS DETERMINATION UNLESS OTHERWISE INDICATED BY THE COMPLAINANT, AND THE COMPLAINANT MAY DIRECT THE DEPARTMENT TO SEND A COPY OF SUCH FINDINGS TO ANOTHER PERSON. THE DEPARTMENT'S FINDINGS MAY INCLUDE CONTENTS OR DOCUMENTATION PROVIDED

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## Section 330.4310(h) (continued)

BY EITHER THE COMPLAINANT OR THE LICENSEE PERTAINING TO THE COMPLAINT. THE DEPARTMENT SHALL ALSO NOTIFY THE FACILITY OF SUCH FINDINGS WITHIN ~~10~~ TEN DAYS OF THE DETERMINATION, BUT THE NAME OF THE COMPLAINANT OR RESIDENTS SHALL NOT BE DISCLOSED IN THIS NOTICE TO THE FACILITY. THE NOTICE OF SUCH FINDINGS SHALL INCLUDE A COPY OF THE WRITTEN DETERMINATION; THE CORRECTION ORDER, IF ANY; THE INSPECTION REPORT; OR THE WARNING NOTICE, IF ANY; AND THE STATE LICENSURE ON WHICH THE VIOLATION IS LISTED.

i) A WRITTEN DETERMINATION, CORRECTION ORDER, OR WARNING NOTICE CONCERNING A COMPLAINT SHALL BE AVAILABLE FOR PUBLIC INSPECTION. BUT THE NAME OF THE COMPLAINANT OR RESIDENT SHALL NOT BE DISCLOSED WITHOUT HIS CONSENT.

j) A COMPLAINANT WHO IS DISSATISFIED WITH THE DETERMINATION OR INVESTIGATION BY THE DEPARTMENT MAY REQUEST A HEARING UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~. THE FACILITY SHALL BE GIVEN NOTICE OF ANY SUCH HEARING AND MAY PARTICIPATE IN THE HEARING AS A PARTY. IF A FACILITY REQUESTS A HEARING UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~ WHICH CONCERNS A MATTER COVERED BY A COMPLAINT, THE COMPLAINANT SHALL BE GIVEN WRITTEN NOTICE AND MAY PARTICIPATE IN THE HEARING AS A PARTY. A REQUEST FOR A HEARING BY EITHER A COMPLAINANT OR A FACILITY SHALL BE SUBMITTED IN WRITING TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE MAILING OF THE DEPARTMENT'S FINDINGS AS DESCRIBED IN SUBSECTION (h) OF THIS SECTION ~~ABOVE~~. UPON RECEIPT OF THE REQUEST THE DEPARTMENT SHALL CONDUCT A HEARING AS PROVIDED UNDER SUBSECTION (k) OF THIS SECTION ~~BELOW~~.

k) ANY PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT OR A FACILITY RENDERED IN A PARTICULAR CASE WHICH AFFECTS THE LEGAL RIGHTS, DUTIES OR PRIVILEGES CREATED UNDER THIS ACT MAY HAVE SUCH DECISION REVIEWED IN ACCORDANCE WITH SECTIONS 3-703 THRU 3-712 OF THE ACT.

l) WHEN THE DEPARTMENT FINDS THAT A PROVISION OF ARTICLE II OF THE ACT REGARDING RESIDENTS' RIGHTS HAS BEEN VIOLATED WITH REGARD TO A PARTICULAR RESIDENT, THE DEPARTMENT SHALL ISSUE AN ORDER REQUIRING THE FACILITY TO REIMBURSE THE RESIDENT FOR INJURIES INCURRED, OR \$100, WHICHEVER IS GREATER.

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.4320 Confidentiality

a) THE DEPARTMENT, THE FACILITY AND ALL OTHER PUBLIC OR PRIVATE AGENCIES

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## Section 330.4320(a) (continued)

SHALL RESPECT THE CONFIDENTIALITY OF A RESIDENT'S RECORD AND SHALL NOT DIVULGE OR DISCLOSE THE CONTENTS OF A RECORD IN A MANNER WHICH IDENTIFIES A RESIDENT, EXCEPT UPON A RESIDENT'S DEATH TO A RELATIVE OR GUARDIAN, OR UNDER JUDICIAL PROCEEDINGS. THIS RULE SHALL NOT BE CONSTRUED TO LIMIT THE RIGHT OF A RESIDENT OR A RESIDENT'S REPRESENTATIVE TO INSPECT OR COPY THE RESIDENT'S RECORDS.

- b) CONFIDENTIAL MEDICAL, SOCIAL, PERSONAL, OR FINANCIAL INFORMATION IDENTIFYING A RESIDENT SHALL NOT BE AVAILABLE FOR PUBLIC INSPECTION IN A MANNER WHICH IDENTIFIES A RESIDENT. (B-~~7~~-G-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 330.4330 Facility Implementation

- a) THE FACILITY SHALL ESTABLISH WRITTEN POLICIES AND PROCEDURES TO IMPLEMENT THE RESPONSIBILITIES AND RIGHTS PROVIDED IN ARTICLE II OF THE ACT. THE POLICIES SHALL INCLUDE THE PROCEDURE FOR THE INVESTIGATION AND RESOLUTION OF RESIDENT COMPLAINTS UNDER THE ACT. THE POLICIES SHALL BE CLEAR AND UNAMBIGUOUS AND SHALL BE AVAILABLE FOR INSPECTION BY ANY PERSON. A SUMMARY OF THE POLICIES AND PROCEDURES, PRINTED IN NOT LESS THAN 12 POINT TYPE, SHALL BE DISTRIBUTED TO EACH RESIDENT AND REPRESENTATIVE. (G-)
- b) THE FACILITY SHALL PROVIDE COPIES OF THESE POLICIES AND PROCEDURES UPON REQUEST TO NEXT OF KIN, SPONSORING AGENCIES REPRESENTATIVE PAYEES AND THE PUBLIC. (G-)
- c) EACH RESIDENT SHALL BE GIVEN A WRITTEN SUMMARY OF ALL THE RIGHTS ENUMERATED IN PART I OF ARTICLE II OF THE ACT AT THE TIME OF ADMISSION TO A FACILITY OR AS SOON THEREAFTER AS THE CONDITION OF THIS RESIDENT PERMITS. AT THE TIME OF IMPLEMENTATION OF THE ACT EACH RESIDENT SHALL BE GIVEN A WRITTEN SUMMARY OF ALL THE RIGHTS ENUMERATED IN PART I OF ARTICLE II OF THE ACT. IF A RESIDENT IS UNABLE TO READ SUCH WRITTEN SUMMARY, IT SHALL BE READ TO THE RESIDENT IN A LANGUAGE THE RESIDENT UNDERSTANDS. IN THE CASE OF A MINOR OR A PERSON HAVING A GUARDIAN, BOTH THE RESIDENT AND THE PARENT OR GUARDIAN SHALL BE FULLY INFORMED OF THESE RIGHTS AND RESPONSIBILITIES. (G-)
- d) THE RESIDENT, RESIDENT'S REPRESENTATIVE, GUARDIAN, OR PARENT OF A MINOR RESIDENT SHALL ACKNOWLEDGE IN WRITING THE RECEIPT FROM THE FACILITY OF A COPY OF ALL RESIDENT RIGHTS SET FORTH IN ARTICLE II OF THE ACT AND A COPY OF ALL FACILITY POLICIES IMPLEMENTING SUCH

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## Section 330.4330(d) (continued)

## RIGHTS. (G-)

- e) THE FACILITY SHALL ENSURE THAT ITS STAFF IS FAMILIAR WITH AND OBSERVES THE RIGHTS AND RESPONSIBILITIES ENUMERATED IN THE ACT AND THESE RULES. (B-~~7~~-G-)

(Source: Amended at 13 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART R: DAY CARE PROGRAMS

## Section 330.4510 Day Care in Long-Term Care Facilities

- a) For a licensed long-term care facility to be approved for a day care program, it is necessary that the facility meet all licensing requirements for its level of care.
- b) In addition, the following criteria must also be met.
- 1) Staff: Sufficient and satisfactory personnel shall be on duty to provide services that meet the total needs of the day care residents, without detracting from the services given to the residents in the facility in accordance with the various staffing requirements of this Part.

## 2) Space:

- A) Dining - Adequate space and equipment available to accommodate the additional residents in accordance with Subparts I and K and Section 330.2870 and 330.3030 of this Part.
- B) Activity Area - Large enough area to accommodate capacity of facility, plus additional "Day Care" residents.
- C) Rest Area - A definite area should be designated as an area available for the Day Care resident to nap or rest. This area should be equipped with beds (roll-aways can be used) or cots and portable screens. There should also be adequate space available for personal items storage for the number of Day Care residents being cared for. Suggested areas which can be utilized for the Day Care resident could include:
- i) Facilities having more than one communal area (such as



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## Section 330.4510(b)(2)(C)(i) (continued)

a lounge or sunporch ~~etc.~~) could designate one of these for rest areas;

- ii) Non-occupied rooms (no one assigned to these rooms);
- iii) Toilets - Adequate number to accommodate extra number of residents in accordance with Sections 330.2860 or 330.3070 of this Part.

## 3) Records:

- A) A statement by a physician who has evaluated the resident within the last 30 days stating the resident is free of communicable and infectious disease, and indicating any medication ~~and/or~~ or treatments and diet needed by the resident during the period of time in the facility. Permission should also be granted in this statement for the resident to participate in activities with any contraindications or limitations.

- B) Medication and Treatment record - Required for any medications or treatments given during resident stay in the facility. (Medications must be in original containers and properly labeled.)

- C) "Face" sheet or admission sheet - Containing all pertinent information necessary for the "safe keeping" of the resident such as complete name; address, telephone number, social security number, medicare number, and age of resident; name, business, and home address, and telephone number of person to notify in an emergency; name of family physician; name of physician to call in an emergency.

- D) Incident Report - in case of medication error or accident of any kind.

- 4) There must be written policies covering "Day Care" Service in the facility which explain implementation of this section.

- 5) Permission for a Day Care Program requires identifying the services of the facility that will be used in the program. Examples: Activity area, dining area, administering of medications by nursing staff, physical therapy, speech, social services, ~~etc.~~

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## Section 330.4510(b) (continued)

- 6) The maximum number of "Day Care" residents served shall be reported with the application under Section 330.610 of this Part.
- 7) The facility should consider the following in developing and providing "Day Care Programs":

- A) Use of house or advisory physician for emergencies;
- B) Insurance coverage;
- C) Signed agreement with family or responsible individual;
- D) Permission to be involved in activities outside of the facility (in the community);
- E) Attendance record; and
- F) Facility should be aware of method and time of pick-up and delivery of the Day Care residents.

(Source: Amended at 13 Ill. Reg. \_\_\_\_, effective \_\_\_\_)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax Regulations
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers:  
130.330  
130.2000
- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 120, par. 441
- 5) A Complete Description of the Subjects and Issues Involved: Tax treatment of products of photofinishing
- 6) Will this proposed rule replace an emergency rule currently in effect?  
Yes
- 7) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒
- 8) Does this amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? Yes
- 10) Statement of Statewide Policy Objectives: None
- 11) Time, Place and Manner in which interested persons may comment on these proposed amendments: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:  
  
R. Dale Yung  
Administrator  
Legal Services Bureau  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6336
- 12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 12, 1988

- B) Types of small businesses affected: Photographers, photoprocessors and retailers of products of photoprocessing
- C) Reporting, bookkeeping or other procedures required for compliance: Accounting of sales, recordkeeping, and filing of returns
- D) Types of professional skills necessary for compliance: Clerical and bookkeeping

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**AUTHORITY:** Implementing the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 120, pars. 440 et seq.) and authorized by Section 39b3 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 39b3).

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**SOURCE:** Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day limit of the original rulemaking; amended at \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**NOTE:** Capitalization denotes statutory language.

**Section 130.330 Manufacturing Machinery and Equipment**

- a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The exemption applies whether the sale or lease is made directly by the manufacturer or some other person. In certain cases purchases of machinery and equipment by a lessor will be exempt even though that lessor does not himself employ the machinery and equipment in an exempt manner. The exemption is phased in over a six-year period beginning January 1, 1979.
- b) Manufacturing and Assembling.
- 1) This exemption exempts from tax only machinery and equipment

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used in manufacturing or assembling tangible personal property for sale or lease. Thus, the use of machinery and equipment in any industrial, commercial or business activity which may be distinguished from manufacturing or assembling will not be an exempt use and such machinery and equipment will be subject to tax.

2) The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant.

3) The process or activity must be commonly regarded as manufacturing. To be so regarded, it must be thought of as manufacturing by the general public. Generally, the scale, scope and character of a process or operation will be considered to determine if such process or operation is commonly regarded as manufacturing. This limits "manufacturing" to an operation at a fixed location or one of a series of operations each at a fixed location whereby a new article is produced. Manufacturing includes such activities as processing, fabricating and refining.

4) Manufacturing does not include extractive industrial activities. Mining, quarrying, logging, and drilling for oil, gas, and water neither produce articles of tangible personal property nor effect any significant or substantial change in the form, use or name of the materials or resources upon which they operate.

5) The printing process is not commonly regarded as manufacturing and court decisions have found that printing is not manufacturing. Therefore, machinery and equipment used in any printing application will not qualify for exemption. This includes graphic arts, newspapers, books, etc. as well as other industrial or commercial applications.

6) Agricultural, horticultural and related, similar or comparable activities, including commercial fishing, beekeeping, production of seedlings, seed corn, and the development of hybrid seeds, plants, or shoots, are not manufacturing or assembling and, accordingly, machinery and equipment used in such activities is subject to tax.

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7) The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing.

8) Assembling means the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name.

9) Effective September 1, 1988, manufacturing includes photoprocessing if the products of photoprocessing are sold. Machinery and equipment which would qualify for exemption includes, but is not limited to, developers, dryers, enlargers, mounting machines, etc. Cameras and equipment used to take pictures or expose film are not eligible as the photoprocessing begins after the film is exposed.

## c) Machinery and Equipment.

1) The law exempts only the purchase and use of "machinery" and "equipment" used in manufacturing or assembling. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the manufacturing or assembling of tangible personal property for sale or lease.

2) Machinery means major mechanical machines or major components of such machines contributing to a manufacturing or assembling process: INCLUDING, MACHINERY AND EQUIPMENT USED IN THE GENERAL MAINTENANCE OR REPAIR OF SUCH EXEMPT MACHINERY AND EQUIPMENT OR FOR IN-HOUSE MANUFACTURE OF EXEMPT MACHINERY AND EQUIPMENT.

3) EQUIPMENT MEANS ANY INDEPENDENT DEVICE OR TOOL SEPARATE FROM ANY MACHINERY BUT ESSENTIAL TO AN INTEGRATED MANUFACTURING OR ASSEMBLING PROCESS: INCLUDING COMPUTERS USED PRIMARILY IN OPERATING EXEMPT MACHINERY AND EQUIPMENT IN A COMPUTER-ASSISTED DESIGN; COMPUTER-ASSISTED MANUFACTURING (CAD/CAM) SYSTEM, OR ANY SUB-UNIT OR ASSEMBLY COMPRISING A COMPONENT OF ANY MACHINERY OR AUXILIARY, ADJUNCT OR ATTACHMENT, PARTS OF MACHINERY, SUCH AS, TOOLS, DIES, JIGS, FIXTURES, PATTERNS AND MOLDS, OR ANY PARTS WHICH REQUIRE PERIODIC REPLACEMENT IN THE COURSE OF NORMAL OPERATION. THE EXEMPTION DOES NOT INCLUDE HAND TOOLS, SUPPLIES (SUCH AS RAGS, SWEEPING OR CLEANING COMPOUNDS), COOLANTS, LUBRICANTS, ADHESIVES, OR SOLVENTS, ITEMS OF PERSONAL APPAREL (SUCH AS GLOVES, SHOES, GLASSES, GOGGLES, COVERALLS,



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APRONS, MASKS, MASK AIR FILTERS, BELTS, HARNESES, OR HOLSTERS), COAL, FUEL OIL, ELECTRICITY, NATURAL GAS, ARTIFICIAL GAS, STEAM, REFRIGERANTS OR WATER.

4) The exemption includes the sale of materials to a purchaser who manufactures such materials into an exempted type of machinery or equipment or tools which such purchaser uses himself in the manufacturing of tangible personal property or leases to a manufacturer of tangible personal property. However, such purchaser must maintain adequate records clearly demonstrating the incorporation of such materials into exempt machinery and equipment.

5) Machinery and equipment does not include foundations for, or special purpose buildings to house or support, machinery and equipment.

## d) Primary Use.

1) The law requires that machinery and equipment be used primarily in manufacturing or assembling. Therefore, machinery which is used primarily in an exempt process and partially in a non-exempt manner would qualify for exemption. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over 50 percent in an exempt manner in order to claim the deduction.

2) The fact that particular machinery or equipment may be considered essential to the conduct of the business of manufacturing or assembling because its use is required by law or practical necessity does not, of itself, mean that machinery or equipment is used primarily in manufacturing or assembling.

3) By way of illustration and not limitation, the following activities will generally be considered to constitute an exempt use:

A) The use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold;

B) The use of machinery or equipment to guide or measure a direct and immediate physical change upon the tangible personal property to be sold, provided such function is an integral and essential part of tuning, verifying, or aligning the component parts of such property;

C) The use of machinery or equipment to inspect, test or measure the tangible personal property to be sold where such function is an integral part of the production flow;

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D) The use of machinery and equipment to convey, handle, or transport the tangible personal property to be sold within production stations on the production line or directly between such production stations or buildings within the same plant;

E) The use of machinery or equipment to place the tangible personal property to be sold into the container, package, or wrapping in which such property is normally sold to the ultimate consumer thereof.

4) By way of illustration and not limitation, the following activities will generally not be considered to be manufacturing:

A) The use of machinery or equipment in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance, or improvement of real estate;

B) The use of machinery or equipment in research and development of new products or production techniques, machinery, or equipment;

C) The use of machinery or equipment to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle;

D) The use of machinery or equipment to store, convey, handle or transport finished articles of tangible personal property to be sold or leased after completion of the production cycle;

E) The use of machinery or equipment to transport work in process, or semifinished goods, between plants;

F) The use of machinery or equipment in managerial, sales, or other nonproduction, nonoperational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training;

G) The use of machinery or equipment to prevent or fight fires or to protect employees, such as protective equipment face masks, helmets, gloves, coveralls, and goggles or for safety, accident protection or first aid even though such machinery or equipment may be required by law;

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h) The use of machinery or equipment for general ventilation, heating, cooling, climate control or general illumination, not required by the manufacturing process;

i) The use of machinery or equipment in the preparation of food and beverages by a retailer for retail sale, i.e., restaurants, vending machines, food service establishments, etc.

5) An item of machinery or equipment which initially is used primarily in manufacturing or assembling and having been so used for less than one-half of the useful life is converted to primarily nonexempt uses will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery or equipment as was excluded from tax at the time the sale or purchase was made.

## e) Product Use.

1) The statute requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for sale or lease. Accordingly, a manufacturer or assembler who uses any significant portion of the output of his machinery or equipment, either for internal consumption or any other nonexempt use, or a lessor who leases otherwise exempt machinery and equipment to such a manufacturer or assembler, will not be eligible to claim the exemption on that machinery and equipment. No apportionment of production capacity between output for sale or lease and output for self-use will be permitted and no partial exemption for any item of machinery and equipment will be allowed.

2) The production of articles of tangible personal property for sale, a portion of which is diverted by the manufacturer thereof to use as sales samples or as the subjects of quality control testing which renders the articles unfit for sale, will nevertheless be deemed to be production for sale, provided such diversion represents only a small portion of the production of the articles of tangible personal property or of the sale of those articles.

3) Machinery and equipment used in the performance of a service, such as dry cleaning, is not used in the production of tangible personal property for sale and is thus taxable. However, a manufacturer or assembler who uses machinery and equipment to produce goods for sale or lease by himself or another, or to perform assembly or fabricating work for a customer who retains the manufacturer or assembler only for his services, will not

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be liable for tax on the machinery and equipment he uses as long as the goods produced either for himself or another are destined for sale or lease, rather than for use and consumption.

## f) Sales to Lessors of Manufacturers.

1) For this exemption to apply, the purchaser need not himself employ the exempt machinery or equipment in manufacturing. If the purchaser leases that machinery or equipment to a lessee-manufacturer who uses it in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A supplier may exclude such sales from his taxable gross receipts provided the purchaser-lessor provides to him a properly completed exemption certificate and the information contained herein would support an exemption if the sale were made directly to the lessee-manufacturer.

2) Should a purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not use it in a manner that would qualify directly for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted.

## g) Exemption Certificates.

1) The user of such machinery or equipment and tools shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the retailer. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit. The Department shall prescribe the form of the certificate. If the user has an active registration or resale number, that number may be given in lieu of the prescribed certificate.

2) If a manufacturer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must prepare and retain in his files, the completed exemption certificate. The exemption certificate shall be available to the Department for inspection or audit.

3) Form RR-586, Summary Schedule, must be filed with the monthly Retailers' Occupation Tax returns to establish the amount of deductions for that month.

4) A vendor who makes sales of machinery or equipment to a manufacturer or lessor of a manufacturer must collect Use Tax, and will owe Retailers' Occupation Tax, on that sale unless the



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purchaser certifies the exempt nature of the purchase to the vendor as set out above. The Summary Schedule, RR-586, must be submitted in lieu of taxes at the time the taxes are due.

## h) Exclusion of Proceeds from Tax.

- 1) The exemption allows proceeds or costs of exempt machinery and equipment sales and purchases to be excluded from the base to which the tax rate is to be applied according to the following schedule:

Sales Made During Calendar Year:	Portion of Price Which May be Excluded from Tax:
1979	31.25%
1980	31.25%
1981 to Aug. 31, 1981	56.25%
Sept. 1, 1981 to Dec. 31, 1982	31.25%
Jan. 1, 1983 to Dec. 31, 1983	56.25%
Jan. 1, 1984 to Dec. 31, 1984	81.25%
Jan. 1, 1985 and years subsequent	100%

- 2) For purposes of determining the portion of the proceeds or costs which may be excluded from tax, a sale of property will be deemed to be made as of the date of delivery of such property. If a single sale of property is made which calls for multiple deliveries unrelated to payments and a portion of the sold property is delivered when one fraction of the proceeds or costs is excludible and the remainder of the property is delivered when a different fraction of the proceeds or costs is excludible, the earliest date of delivery of any of the property will determine the portion of the proceeds or cost of the entire sale which may be excluded in computing the tax that is due on that entire sale. However, even when a contract provides for multiple deliveries, if a payment is closely related in time and quantity to the property delivered, the date of each delivery will determine the portion of the proceeds or cost which may be excluded in computing the tax that is due on that payment.

## i) Opinions and Rulings.

Informal ruling and opinion letters issued by the Department

regarding the coverage and applicability of this exemption to specific devices will be maintained by the Department in Springfield. They will be available for public inspection and may be copied or reproduced at taxpayer's expense. Trade secrets or other confidential information in such letters will be deleted prior to release to public access files.

(Source: Amended at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers

## a) Classification of Businesses

Falling into the classification of persons engaged in the graphic arts or related occupations are printers, book binders, typographers, portrait or commercial photographers, commercial artists, portrait painters, sign painters, photostaters, blueprinters and photofinishers. This list is illustrative, but not exhaustive. Persons falling under this Regulation Part may or may not qualify for the graphic arts machinery and equipment exemption set forth in Section 130.325.

## b) Persons Engaged in the Graphic Arts--When Liable For Tax

- 1) Persons engaged in the graphic arts or related occupations may, under certain circumstances, be considered to be engaged in the business of selling tangible personal property to purchasers for use or consumption, in which event they incur Retailers' Occupation Tax liability. This is the case, for example, when they sell to purchasers for use or consumption tangible personal property which is standard enough to be stocked for sale or offered for sale from catalogues or other sales literature, or which otherwise is sold at retail apart from the seller's engaging in a service occupation. Illustrations would include legal forms, pictures or other items which are stocked for sale or offered for sale to the public generally, or products of photoprocessing.

- 2) Effective August 1, 1961, a person who is engaged in the graphic arts also incurs Retailers' Occupation Tax liability on his receipts from sales, to users, of items which he produces on special order if such item serves substantially the same function as stock or standard items of tangible personal property that are sold at retail. Items which "serve substantially the same function" are those which, when produced on special order, could be sold substantially as produced to someone other

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than the original purchaser at substantially the same price.

- 3) Effective September 1, 1988, photographers, film makers, and other servicemen, are subject to Retailers' Occupation Tax on the photoprocessing component of their total service charge when they sell products of photoprocessing. The tax on the photoprocessing component will apply regardless of whether the photographer performs the photoprocessing in-house, or engages a third-party photoprocessor. Photoprocessing includes, but is not limited to: developing films, positives and negatives, transparencies, tinting, mounting, coloring, making and enlarging prints. Photoprocessing does not include color separation and typesetting by photographic means in the graphic arts industry, graphic arts processes such as printing and lithography, photocopying or blueprinting or video tape. The charge for in-house photoprocessing may not be less than the photoprocessor's cost price of materials. If a charge for the photoprocessing component is not separately stated, tax is imposed on 50% of the entire selling price. The tax on photoprocessing may be paid when purchasing self-developing film, such as Polaroid, or film which includes photoprocessing charges in the purchase of the film.

- 1) EXAMPLE: The commercial photographer receives an assignment to shoot a specified layout from an advertising agency. The photographer selects the location, hires the models, arranges for the make-up, rents the equipment and shoots the scene. The photographer sends the undeveloped film to an outside photoprocessing laboratory for development. The photographer's bill for the sale of the photograph includes a charge for his artistic and other services and a separately-stated charge for the photoprocessing component which is either the charge made to him by the photoprocessing laboratory or such an amount plus his customary mark-up. The tax should only be applied to the photoprocessing component.

- 2) EXAMPLE: The same facts as above except the photographer does not separately state a charge for the photoprocessing component and bills his client a lump sum. A tax is collected on 50% of the lump sum price.

- 3) EXAMPLE: A portrait photographer photographs a family in his studio and develops the film in-house. The photographer's bill includes a sitting fee and a separately-stated charge for the product of photoprocessing. A tax is collected on the photoprocessing charge only.

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c) Persons Engaged in the Graphic Arts--When Not Liable For Tax

- 1) ~~A photographer who is employed to take a picture for his customer, or a person who is employed to do photofinishing work for his customer, or a photostater who is employed to reproduce material for his customer by the photostating process, or a printer who is employed to print material for his customer in accordance with copy supplied to the printer by the customer or otherwise in accordance with the customer's specifications and special order, or a person who otherwise engages primarily in the transaction in furnishing graphic arts' services is not engaged in such transaction in the business of selling tangible personal property within the meaning of the Act, if the item so produced does not serve substantially the same function as stock or standard items of tangible personal property that are sold at retail, but is engaged in such transaction primarily in a service occupation.~~

- 2) To the extent to which any such person engages in a service occupation, he is not liable for Retailers' Occupation Tax on his receipts therefrom, including receipts from both labor and tangible personal property. For further illustrations, see Section 130.1995(b) of this Part.

- 3) If the tax exemption described in this Section would otherwise apply, the person supplying the printed item or other item that is produced through the graphic arts' processes to the user will not lose that exemption because of the fact that he farms the work of producing the item out to someone else.

d) Suppliers of Persons Engaged in the Graphic Arts--When Liable For Tax

- 1) When persons who are engaged in the business of selling tangible personal property sell any such tangible personal property, for use or consumption, to persons engaged in the graphic arts or related occupations, such vendors incur Retailers' Occupation Tax liability unless such purchases qualify for the graphic arts exemption (see Section 130.325). This class of sales includes, but is not limited to, sales of machinery, tools, equipment, office supplies and other tangible personal property which the purchasers retain and use or consume. This class of sales also includes sales of plates, film, pre-sensitized plates, alcohol, chemicals, etc., which are consumed by those engaged in the graphic arts or related occupations in the course of the performance of their work.

- 2) It is not material whether the plates, film, pre-sensitized plates, alcohol, chemicals, etc., are consumed in the course of



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producing, by the graphic arts' processes, items which have a commercial value, or whether the plates, film, pre-sensitized plates, alcohol, chemicals, etc., are consumed in producing, on special order, items of noncommercial value.

3) Likewise, this class of sales includes sales of film to photographers who use such film in producing negatives which remain the property of such photographers.

4) Furthermore, this class of sales includes sales of paper stock, ink, duplicating materials (stencil sheet masters, offset masters and spirit masters) and other tangible personal property to printers and other graphic arts' servicemen who incorporate such tangible personal property as ingredients into items which remain the property of such servicemen instead of being resold by them in some manner.

e) Suppliers of Persons Engaged in the Graphic Arts--When Not Liable For Tax

1) Persons who sell tangible personal property to persons who are engaged in the graphic arts or related occupations and who resell such property to others are not required to remit Retailers' Occupation Tax measured by their gross receipts from such sales. This class of sales includes sales of ink, paper stock, developing paper, sensitized paper, bookbindings, metal, wood, glue, brads, staples, binding tape and other tangible personal property where such property is purchased by persons engaged in the graphic arts or related occupations and incorporated by them into printed matter, pictures or other tangible personal property which they sell.

2) It is not material whether the ink, paper, developing paper and other similar items are resold as ingredients of articles which have a commercial value or whether the ink, paper stock, developing paper and other similar items are resold as ingredients of articles which are produced on special order and which have no commercial value.

f) Liability Under the Service Occupation Tax

For information concerning the application of the Service Occupation Tax to purchases, by graphic arts' servicemen, of tangible personal property which they retransfer as an incident to rendering service, see the Service Occupation Tax Regulations, 86 Ill. Adm. Code 140.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Service Occupation Tax Regulations
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Numbers:  
140.140  
140.145  
Proposed Action:  
Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 120, pars. 439.102 and 439.103
- 5) A Complete Description of the Subjects and Issues Involved: Tax treatment of products of photofinishing.
- 6) Will this proposed rule replace an emergency rule currently in effect?  
Yes

7) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒

8) Does this amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.1401	Amendment	7/8/88--12 Ill. Reg. 11108
140.1405	Amendment	7/8/88--12 Ill. Reg. 11108
140.1415	Amendment	7/8/88--12 Ill. Reg. 11108

10) Statement of Statewide Policy Objectives: None

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung  
Administrator  
Legal Services Bureau  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6336

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: December 12, 1988

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- B) Types of small businesses affected: Photographers, photoprocessors and retailers of products of photoprocessing
- C) Reporting, bookkeeping or other procedures required for compliance: Accounting of sales, recordkeeping, and filing of returns
- D) Types of professional skills necessary for compliance: Clerical and bookkeeping

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 140  
SERVICE OCCUPATION TAX REGULATIONS

SUBPART A: NATURE OF TAX

Section	
140.101	Basis and Rate of the Service Occupation Tax
140.105	Collection of Service Occupation Tax by Suppliers
140.110	Presumption that Tax Applies
140.115	Occasional Sales to Servicemen by Suppliers
140.120	Meaning of Serviceman
140.125	Examples of Nontaxability
140.130	Suppliers of Printers
140.135	Sales of Drugs and Related Items, to or by Pharmacists
140.140	Other Examples of Taxable Transactions
140.145	Multi-Service Situations

SUBPART B: DEFINITIONS

General Definitions

Section	
140.201	

SUBPART C: BASE OF THE TAX

Section	
140.301	Cost Price
140.305	Refunds by Supplier or Serviceman

SUBPART D: TAX RETURNS

Section	
140.401	Monthly Returns When Due--Contents of Returns
140.105	Annual Tax Returns
140.410	Final Return
140.415	Taxpayers' Duty to Obtain Form
140.420	Annual Information Returns by Suppliers
140.425	Filing of Returns for Serviceman "Suppliers" by their Suppliers Under Certain Circumstances
140.430	Incorporation by Reference

SUBPART E: INTERSTATE COMMERCE

Section	
140.501	Sales of Service Involving Property Originating in Illinois
140.505	Sales of Service Involving Property Originating Outside of Illinois

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

General Information

Section	
140.601	



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## SUBPART G: BOOKS AND RECORDS

Section  
140.701  
Requirements

## SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section  
140.801  
General Information

## SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

Section  
140.901  
Written Opinions

## SUBPART J: COLLECTION OF THE TAX

Section  
140.1001  
Payment of Tax to the Supplier  
140.1005  
Receipt to be Obtained for Tax Payments  
140.1010  
Payment of Tax Directly to the Department  
140.1015  
Itemization of the Tax by Suppliers  
140.1020  
Use of Bracket Chart  
140.1025  
Advertising in Regard to the Tax

## SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING--MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section  
140.1101  
Filing of Documents with the Department

## SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section  
140.1201  
When Lessee of Premises May File Return for Leased Department  
140.1205  
When Lessor of Premises Should File Return for Leased Department  
140.1210  
Meaning of "Lessor" and "Lessee" in this Regulations

## SUBPART M: USE OF EXEMPTION CERTIFICATES

Section  
140.1301  
When Purpose of Serviceman's Purchase is Known  
140.1305  
When Purpose of Serviceman's Purchase is Unknown  
140.1310  
Blanket Percentage Exemption Certificates

## SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section  
140.1401  
Claims for Credit--Limitations--Procedure  
140.1405  
Disposition of Credit Memoranda by Holders Thereof  
140.1410  
Refunds  
140.1415  
Interest

## SUBPART O: DISCONTINUATION OF A BUSINESS

Section  
140.1501  
Procedures

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## SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section  
140.1601  
Requirements and Procedures

## SUBPART Q: POWER OF ATTORNEY

Section  
140.1701  
General Information

**AUTHORITY:** Implementing the Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 120, pars. 439.101-439.121 et seq.) and authorized by Section 39b30 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 39b30).

**SOURCE:** Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. \_\_\_\_\_, effective September 1, 1988, for a maximum of 150 days; amended at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

NOTE: Capitalization denotes statutory language.

## Section 140.140 Other Examples of Taxable Transactions

- a) Purchases of metal, wood, rubber and other ingredients by special tool, die, pattern and machinery producers who incorporate them into such products in such a manner as to be exempt from the Retailers' Occupation Tax Act, if the products are produced for users and delivered in Illinois;
- b) purchases of bandages, medicines, drugs and other tangible personal property by doctors for retransfer to patients as an incident to the furnishing of professional services in Illinois;
- c) purchases of medicines, drugs, dentures, materials for fillings and other tangible personal property by dentists for retransfer to patients as an incident to the furnishing of professional services in Illinois;
- d) purchases of arch supports, trusses, braces, etc., by chiropodists, osteopaths and chiropractors for retransfer as an incident to the furnishing of licensed services in Illinois;
- e) purchases of collar supports, coat hangers, suit bags, paper,

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string, shirtboards, and other tangible personal property by laundries and dry cleaners for retransfer as an incident to the furnishing of laundering and cleaning services in Illinois;

f) purchases of paper bags, wrapping paper, string and other tangible personal property for the purpose of retransfer as an incident to the furnishing of wrapping services in Illinois;

g) purchases of hair tonic and oil, pomades, powders, dyes, lotions, creams and other similar tangible personal property by barbers and beauticians for retransfer as an incident to the furnishing of services in Illinois in such a way that the property remains on the person of the customer of the barber or beautician;

h) purchases of eyeglasses and frames by optometrists and oculists for retransfer to customers as an incident to the furnishing of licensed services in Illinois, or purchases of the materials which become a part of, or are otherwise retransferred in connection with, such eyeglasses and frames where the optometrist or oculist is also the producer of such eyeglasses or frames; however, when the optometrist or oculist purchases the eyeglasses or frames in finished form from an optician, so that the optometrist or oculist has subcontracted a portion of his service work to the optician thus giving rise to a multi-service situation, see Section 140.145 of this Subpart;

i) purchases of ~~sensitized paper, mounted and frames by photographers,~~ book binding by bookbinders and other tangible personal property by graphic arts servicemen for retransfer in Illinois as an incident to the furnishing of services;

j) purchases of paint, wax, undercoating and other tangible personal property for retransfer by automobile servicemen or other servicemen as an incident to the furnishing of services in Illinois;

k) purchases of wax and shoe polish by shoe shiners for retransfer as an incident to the furnishing of shoe shining services;

l) purchases of repair parts, repair materials and other tangible personal property by persons who repair, remodel or recondition tangible personal property for others, for retransfer by such persons as an incident to their furnishing of service to their customers; however, such purchases of repair parts and repair materials are not taxable when made by a railroad which will dispose of such parts or materials on a nonprofit basis by installing them, as a repairman, in cars belonging to another railroad at interchange points in connection with the interchange of traffic;

m) purchases of food, medicine and other tangible personal property by

business-operated hospitals and sanatoria or by licensed business-operated nursing homes for retransfer as an incident to rendering hospital or nursing service in Illinois to patients;

n) purchases of prizes by theaters for retransfer as an incident to service;

o) purchases of embalming fluid by funeral directors for retransfer as an incident to their providing of an embalming service to others;

p) purchases of dye for retransfer as an incident to rendering service by persons engaged in the service occupation of dyeing clothing for users;

q) purchases of tangible personal property by sign makers for retransfer as an incident to rendering service in the production of signs which are special enough to be exempt from the Retailers' Occupation Tax under Section 130.2155 of the Retailers' Occupation Tax Regulations, (86 Ill. Adm. Code 130);

r) purchases made by servicemen for retransfer as an incident to sales of service to national banks or State-chartered banks or to Federal or State savings and loan associations, and (since March 17, 1965) purchases made by State-chartered banks or Federal and State savings and loan associations for retransfer by them as an incident to sales of service. Effective February 1, 1970, purchases by national banks for retransfer by them as an incident to sales of service are also subject to Service Occupation Tax, provided that such tax does not apply to property which is the subject matter of a written contract of purchase entered into by a national bank prior to September 1, 1969.

s) The foregoing examples are illustrative, but not exhaustive.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_)

## Section 140.145 Multi-Service Situations

a) If a primary serviceman (such as an advertising agency, or special order printing broker or optometrist or oculist, or druggist or ~~camera-shop-handling-photofinishing-orders-for-customer or a~~ special order diemaker) farms or jobs out all or a portion of the work to other servicemen (such as printers, lithographers, opticians, ~~photofinishing~~ special order diemakers, etc.), the Service Occupation Tax liability will be determined in accordance with the following provisions in the statute: "WHEN A SERVICEMAN CONTRACTS OUT PART OR ALL OF THE SERVICES REQUIRED IN HIS SALE OF



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SERVICE, IT SHALL BE PRESUMED THAT THE COST PRICE TO THE SERVICEMAN OF THE PROPERTY TRANSFERRED TO HIM BY HIS SUBCONTRACTOR IS EQUAL TO 50% OF THE SUBCONTRACTOR'S CHARGES TO THE SERVICEMAN IN THE ABSENCE OF PROOF OF THE CONSIDERATION PAID BY THE SUBCONTRACTOR FOR THE PURCHASE OF SUCH PROPERTY, OR IN THE ABSENCE OF PROOF THAT THE TAX IMPOSED BY THIS ACT WAS PAID BY HIS SUBCONTRACTOR (IN WHICH LATTER EVENT THERE SHALL BE NO FURTHER LIABILITY IN THE TRANSACTION UNDER THIS ACT)." (Section 2 of the Service Use Tax Act.)

- b) proof that the subcontractor-serviceman has already paid the tax to suppliers, or that he has paid or will pay the tax to the Department, thus relieving the primary serviceman (the one dealing with the user) of further liability in the transaction, may be provided by the subcontractor-serviceman to the primary serviceman in the form of a certification to the effect that the subcontractor-serviceman has paid the tax to his supplier or suppliers on his cost price of all the tangible personal property that is being transferred as an incident to a sale of service in the transaction, or that the subcontractor-serviceman has paid or will pay the tax on such cost price directly to the Department. If such certification states that the subcontractor-serviceman has paid or will pay the Service Occupation Tax to the Department, the certification must include the subcontractor-serviceman's registration number with the Department.
- c) If the certification states that the subcontractor-serviceman has paid the tax to one or more suppliers, the certification must contain the name or names and the address or addresses of such supplier or suppliers. Such certification shall also include the subcontractor-serviceman's registration number with the Department or a statement that the subcontractor-serviceman is not registered with the Department if that is the fact.
- d) In the absence of such a certification from the subcontractor-serviceman to the primary serviceman (the one dealing with the user), the primary serviceman is liable for the tax in accordance with the above-quoted paragraph from the statute. His liability is based on his cost price of the tangible personal property which he purchases and retransfers as an incident to service. His cost price will be what the subcontractor-serviceman paid for the tangible personal property which he purchased and retransferred as an incident to service to the primary serviceman if the primary serviceman has proof in his records as to what the subcontractor-serviceman's cost price of the tangible personal property was. In the absence of that proof, the primary serviceman's cost price or tax base will be presumed to be 50% of the subcontractor-serviceman's charges to the primary serviceman in the transaction.
- e) If the subcontractor-serviceman does not give the primary serviceman

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a certification showing that the subcontractor-serviceman has paid or will pay the Service Occupation Tax to the Department on his cost price of the tangible personal property that he is transferring as an incident to service in the transaction, or that he has paid the Service Occupation Tax to enumerated suppliers, the subcontractor-serviceman (being the primary serviceman's supplier) is required to collect the Service Occupation Tax from the primary serviceman and to remit such tax to the Department. However, the subcontractor's failure to collect the Service Occupation Tax from the primary serviceman in this situation does not relieve the primary serviceman of a direct liability for Service Occupation Tax to the Department, because he is relieved of that obligation only if he can prove that he paid the Service Occupation Tax to his supplier or suppliers (including subcontractor-serviceman suppliers), or by obtaining a certification from the subcontractor-serviceman to the effect that he has paid the Service Occupation Tax to enumerated suppliers or that he has paid or will pay the Service Occupation Tax to the Department.

(Source: Amended at \_\_\_ Ill. Reg. \_\_\_, effective \_\_\_\_\_)

## ILLINOIS SPORTS FACILITIES AUTHORITY

## ILLINOIS SPORTS FACILITY AUTHORITY

## NOTICE OF PROPOSED RULES

## NOTICE OF PROPOSED RULES

1) Heading of the Part: Procurement Procedures2) Code Citation: 44 Ill. Adm. Code 1305

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1305.10	New Section
1305.20	New Section
1305.30	New Section
1305.40	New Section
1305.50	New Section

4) Statutory Authority: P.A. 85-1034, effective July 7, 1988.

5) A Complete Description of the Subjects and Issues Involved:  
The Illinois Sports Facilities Authority is Authorized to construct the new White Sox Stadium. This rule provides for the procurement of goods, services and construction by the Authority.

6) Will this proposed rule replace an emergency rule currently in effect? No.7) Does this rulemaking contain an automatic repeal date? No.8) Does this proposed rule contain incorporations by reference? No.9) Are there any other proposed amendments pending on this part? No.10) Statement of statewide policy objectives: N/A

11) Time, place and manner in which interested persons may comment on the proposed rulemaking: The Authority will consider all comments on this rule received within 45 days of the date of this publication. Written comments and questions should be addressed to:

Timothy D. Romani  
Deputy Director ISFA  
One First National Plaza, Suite 2785  
Chicago, IL 60603  
(312) 793-1991

12) Initial Regulatory Flexibility Analysis: N/A

The full text of proposed rules is identical to the full text of the Emergency Rules which appears in this issue of the Illinois Register on page 22253.



- 1) Heading of Part: Law Enforcement Agencies Data System (LEADS)
- 2) Code Citation: 20 Ill. Adm. Code 1240
- 3) Section Number:  
1240.40
- 4) Statutory Authority: Implementing and authorized by "An Act in relation to criminal identification and investigation" (Ill. Rev. Stat. 1981, ch. 38, pars. 206-1 et seq., 206-1 et seq.) and authorized by Section 55(a) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1981, ch. 127, par. 55(a)).
- 5) A Complete Description of the Subjects and Issues Involved: The transmission of highly confidential Computerized Criminal History (CCH) data to mobile data terminals is prohibited by administrative rules. Technological improvements in the security for transmitted messages now provide sufficient safeguards to allow limited access to CCH data by mobile data terminals. This amendment revises the rule accordingly.
- 6) Will this proposed amendment replace an emergency amendment currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed amendment contain incorporations by reference? No.
- 9) Are there any other amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: Not applicable.

11) Time, place, and manner in which interested persons may comment on this proposed rulemaking: Within 14 days of the date of publication of this Notice, any interested person may request the opportunity to submit comments, data, views, or argument regarding the proposed amendment. The request and submissions must be in writing and directed to: Mr. James W. Redlich, Legal Advisor, Illinois State Police, 201 Armory Building, Springfield, Illinois 62706 (Telephone: 217 - 782-7658).

The Department will consider any written submissions or comments if the request to comment is mailed within 14 days of the date of publication of this Notice and is received in writing by the Department within 30 days of the date of publication of this Notice.

- 12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

The full text of the Proposed Amendment begins on the next page.

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT  
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1240  
LAW ENFORCEMENT AGENCIES DATA SYSTEM (LEADS)

Section	
1240.10	Introduction
1240.20	The LEADS Advisory Policy Board (APB)
1240.30	Accessing LEADS Data and Participating in LEADS
1240.40	Equipment Options for Connecting to LEADS
1240.50	Financial Responsibility
1240.60	Terminal Environment, Location and Security
1240.70	Records Responsibility
1240.80	Validation of Computerized Hot Files (CHF) Records
1240.90	Dissemination of Data Obtained Through LEADS
1240.100	Operating Procedure Regulations
1240.110	Administrative Responsibilities
1240.120	Audits of Participating Agencies
1240.130	Procedures for Implementing Changes
1240.140	Non-Compliance

AUTHORITY: Implementing and authorized by "An Act in relation to criminal identification and investigation" (Ill. Rev. Stat. 1981, ch. 38, pars. 206-1 et seq.) and authorized by Section 55(a) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1981, ch. 127, par. 55(a)).

SOURCE: Adopted at 3 Ill. Reg. 6, p. 125, effective February 19, 1979; codified at 7 Ill. Reg. 14508; recodified from the Department of Law Enforcement to the Department of State Police at 10 Ill. Reg. 3281; amended at 12 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 1240.40 Equipment Options for Connecting to LEADS

- a) Provided that an agency qualifies for participation in LEADS as described in Section 1240.30 of this Part, there are three (3) options for obtaining equipment and physically connecting to the system. These options are:

- 1) -- DLE Supplies Standard Equipment -- Fully-Supported Environment
- 2) -- Agency Supplies Non-Standard Equipment -- Non-Supported Environment
- 3) -- Agency Supplies Standard Equipment -- Semi-Supported Environment

b) "Supported" Defined

The term "supported" refers to the assistance which will be provided by the Department of Law Enforcement (DLE) to the user agency. This could include the following:

- 1) -- Systems analysis and design
- 2) -- Computer programming

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- 3) -- Equipment ordering, installation, maintenance, moving and removal
- 4) -- Training
- 5) -- Operating procedures and reference manuals
- 6) -- Statistics on each terminal's usage of LEADS
- c) Requirement for Advance Written Request  
An agency must make a written request 90 days in advance of the desired connection date. The request must be sent to the LEADS Administrator, 501 Armory Building, Springfield, Illinois 62706. The request must indicate when connection to LEADS is desired and which of the three options is planned.
- d) DLE Supplies Standard Equipment -- Fully-Supported Environment  
An agency will be fully supported when it requests that the Department of Law Enforcement (DLE) make all arrangements to provide standard equipment. In this case, DLE and the participating agency will have the following responsibilities:
  - 1) The Department of Law Enforcement will:
    - A) Place all orders for the installation, relocation or removal of all line-related and terminal-related equipment.
    - B) Make all technical services arrangements related to installation, maintenance, relocation and removal of all necessary equipment.
    - C) Perform all systems analysis, design and programming required at both the Data Center and the terminal.
    - D) Absorb all costs related to the computer equipment at the Data Center.
    - E) Provide training for terminal operators and interested administrative personnel representing the participating agency.
    - F) Provide a reference manual, publications, notices and special bulletins.
    - G) Provide assistance toward the solution of operational problems.
  - 2) The Fully-Supported agency will:
    - A) Pay the cost of installation, monthly rental, relocation and removal of all terminal equipment and communications facilities.
    - B) Procure and pay the cost of all consumable supplies (printer paper, ribbons, etc.).
    - C) Provide operating and administrative personnel at the terminal site.
    - D) Absorb the cost of travel, lodging and meals for its own personnel attending training sessions, conferences, etc., unless otherwise stipulated by the Department of Law Enforcement.
- e) Agency Supplies Non-Standard Equipment -- Non-Supported Environment  
When a department elects to obtain its own terminal equipment that is not identical to equipment offered through DLE, that department is operating in a non-supported environment. This means that the agency

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may connect its equipment to LEADS, but will not receive the full support from DLE offered to users of standard equipment. A special example of non-standard equipment is the mobile terminal which is covered in paragraph (g) below. DLE and the user agency will meet the following responsibilities:

- 1) The Department of Law Enforcement will:
  - A) Provide technical information such as communications disciplines (electronic procedures by which computers and terminals "talk" to each other) and message structures necessary for successful connection to LEADS.  
CAUTION: LEADS will only allow connection of equipment which operates at certain specific data transmission rates and which uses one of the communications disciplines which DLE supports. DLE will not perform special programming to support a communications discipline that is not already supported by DLE.
  - B) Place orders for the installation, relocation or removal of all communications lines and related communications facilities (modems).
  - C) Perform all programming required at the DLE Data Center which is identical to that provided for the fully supported environment.
  - D) Make all technical services arrangements related to the installation, maintenance, repair, relocation and removal of all communications lines and related communications equipment. DLE will not be responsible for maintenance arrangements on any of the user agency's terminal equipment.
  - E) Absorb all costs related to the computer equipment at the DLE Data Center, with the exception of those costs related to the transmission control unit in such cases where a non-supported terminal requires additional equipment on that unit.
  - F) Provide a reference manual, publications, notices and special bulletins in the language of the Fully-Supported Terminal Environment.  
CAUTION: The user must understand that the terminology and procedures described in LEADS publications will frequently not correspond exactly to the terminology and procedures established in the non-supported environment. This places an additional responsibility on the user agency to insure that all LEADS-written communications are understood and adhered to.
  - G) Provide training for terminal operators and interested administrative personnel in the use of the LEADS Operating and Reference Manuals and the various LEADS services. DLE will not provide training on the operation of non-standard terminal equipment.



DEPARTMENT OF STATE POLICE  
NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of Part: Law Enforcement Agencies Data System (LEADS)

2) Code Citation: 20 Ill. Adm. Code 1240

3) Section Number:  
1240.40

4) Statutory Authority: Implementing and authorized by "An Act in relation to criminal identification and investigation" (Ill. Rev. Stat. 1981, ch. 38, pars. 206-1 et seq.) and authorized by Section 55(a) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1981, ch. 127, par. 55(a)).

5) A Complete Description of the Subjects and Issues Involved: The transmission of highly confidential Computerized Criminal History (CCH) data to mobile data terminals is prohibited by administrative rules. Technological improvements in the security for transmitted messages now provide sufficient safeguards to allow limited access to CCH data by mobile data terminals. This amendment revises the rule accordingly.

6) Will this proposed amendment replace an emergency amendment currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Does this proposed amendment contain incorporations by reference? No.

9) Are there any other amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives: Not applicable.

11) Time, place, and manner in which interested persons may comment on this proposed rulemaking: Within 14 days of the date of publication of this Notice, any interested person may request the opportunity to submit comments, data, views, or argument regarding the proposed amendment. The request and submissions must be in writing and directed to: Mr. James W. Redlich, Legal Advisor, Illinois State Police, 201 Armory Building, Springfield, Illinois 62706 (Telephone: 217 - 782-7658).

The Department will consider any written submissions or comments if the request to comment is mailed within 14 days of the date of publication of this Notice and is received in writing by the Department within 30 days of the date of publication of this Notice.

12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

The full text of the Proposed Amendment begins on the next page.

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT  
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1240  
LAW ENFORCEMENT AGENCIES DATA SYSTEM (LEADS)

Section	
1240.10	Introduction
1240.20	The LEADS Advisory Policy Board (APB)
1240.30	Accessing LEADS Data and Participating in LEADS
1240.40	Equipment Options for Connecting to LEADS
1240.50	Financial Responsibility
1240.60	Terminal Environment, Location and Security
1240.70	Records Responsibility
1240.80	Validation of Computerized Hot Files (CHF) Records
1240.90	Dissemination of Data Obtained Through LEADS
1240.100	Operating Procedure Regulations
1240.110	Administrative Responsibilities
1240.120	Audits of Participating Agencies
1240.130	Procedures for Implementing Changes
1240.140	Non-Compliance

AUTHORITY: Implementing and authorized by "An Act in relation to criminal identification and investigation" (Ill. Rev. Stat. 1981, ch. 38, pars. 206-1 et seq.) and authorized by Section 55(a) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1981, ch. 127, par. 55(a)).

SOURCE: Adopted at 3 Ill. Reg. 6, p. 125, effective February 19, 1979; codified at 7 Ill. Reg. 14508; recodified from the Department of Law Enforcement to the Department of State Police at 10 Ill. Reg. 3281; amended at 12 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 1240.40 Equipment Options for Connecting to LEADS

a) Provided that an agency qualifies for participation in LEADS as described in Section 1240.30 of this Part, there are three (3) options for obtaining equipment and physically connecting to the system. These options are:

- 1) -- DLE Supplies Standard Equipment -- Fully-Supported Environment
- 2) -- Agency Supplies Non-Standard Equipment -- Non-Supported Environment
- 3) -- Agency Supplies Standard Equipment -- Semi-Supported Environment

b) "Supported" Defined

The term "supported" refers to the assistance which will be provided by the Department of Law Enforcement (DLE) to the user agency. This could include the following:

- 1) -- Systems analysis and design
- 2) -- Computer programming

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- 3) -- Equipment ordering, installation, maintenance, moving and removal
- 4) -- Training
- 5) -- Operating procedures and reference manuals
- 6) -- Statistics on each terminal's usage of LEADS
- c) Requirement for Advance Written Request
 

An agency must make a written request 90 days in advance of the desired connection date. The request must be sent to the LEADS Administrator, 501 Armory Building, Springfield, Illinois 62706. The request must indicate when connection to LEADS is desired and which of the three options is planned.
- d) DLE Supplies Standard Equipment -- Fully-Supported Environment
 

An agency will be fully supported when it requests that the Department of Law Enforcement (DLE) make all arrangements to provide standard equipment. In this case, DLE and the participating agency will have the following responsibilities:

  - 1) The Department of Law Enforcement will:
    - A) Place all orders for the installation, relocation or removal of all line-related and terminal-related equipment.
    - B) Make all technical services arrangements related to installation, maintenance, relocation and removal of all necessary equipment.
    - C) Perform all systems analysis, design and programming required at both the Data Center and the terminal.
    - D) Absorb all costs related to the computer equipment at the Data Center.
    - E) Provide training for terminal operators and interested administrative personnel representing the participating agency.
    - F) Provide a reference manual, publications, notices and special bulletins.
    - G) Provide assistance toward the solution of operational problems.
  - 2) The Fully-Supported agency will:
    - A) Pay the cost of installation, monthly rental, relocation and removal of all terminal equipment and communications facilities.
    - B) Procure and pay the cost of all consumable supplies (printer paper, ribbons, etc.).
    - C) Provide operating and administrative personnel at the terminal site.
    - D) Absorb the cost of travel, lodging and meals for its own personnel attending training sessions, conferences, etc., unless otherwise stipulated by the Department of Law Enforcement.
- e) Agency Supplies Non-Standard Equipment -- Non-Supported Environment
 

When a department elects to obtain its own terminal equipment that is not identical to equipment offered through DLE, that department is operating in a non-supported environment. This means that the agency

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may connect its equipment to LEADS, but will not receive the full support from DLE offered to users of standard equipment. A special example of non-standard equipment is the mobile terminal which is covered in paragraph (g) below. DLE and the user agency will meet the following responsibilities:

## 1) The Department of Law Enforcement will:

- A) Provide technical information such as communications disciplines (electronic procedures by which computers and terminals "talk" to each other) and message structures necessary for successful connection to LEADS.

CAUTION: LEADS will only allow connection of equipment which operates at certain specific data transmission rates and which uses one of the communications disciplines which DLE supports. DLE will not perform special programming to support a communications discipline that is not already supported by DLE.

- B) Place orders for the installation, relocation or removal of all communications lines and related communications facilities (modems).
- C) Perform all programming required at the DLE Data Center which is identical to that provided for the fully supported environment.
- D) Make all technical services arrangements related to the installation, maintenance, repair, relocation and removal of all communications lines and related communications equipment. DLE will not be responsible for maintenance arrangements on any of the user agency's terminal equipment.
- E) Absorb all costs related to the computer equipment at the DLE Data Center, with the exception of those costs related to the transmission control unit in such cases where a non-supported terminal requires additional equipment on that unit.
- F) Provide a reference manual, publications, notices and special bulletins in the language of the Fully-Supported Terminal Environment.
 

CAUTION: The user must understand that the terminology and procedures described in LEADS publications will frequently not correspond exactly to the terminology and procedures established in the non-supported environment. This places an additional responsibility on the user agency to insure that all LEADS-written communications are understood and adhered to.
- G) Provide training for terminal operators and interested administrative personnel in the use of the LEADS Operating and Reference Manuals and the various LEADS services. DLE will not provide training on the operation of non-standard terminal equipment.



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H) Provide assistance for identifying the source of operational problems. DLE will make arrangements for the correction of those problems determined to be related to the Data Center or the communications line. DLE accepts no responsibility for the correction of difficulties found to be associated with the user's terminal equipment.

## 2) The Non-Supported agency will:

- A) Arrange for a conference between its own representatives, the terminal vendor, and DLE. The conference must be successfully concluded before DLE will make any preparations for connection of non-standard equipment. DLE suggests that this meeting occur prior to the signing of a contract between a participating agency and any vendor. If not prior to signing, the meeting should occur at the earliest possible time thereafter. DLE accepts no responsibility for misunderstanding of LEADS specifications and requirements which occur between the local agency and its vendor.
- B) Pay the cost of supplies and the cost of installation, monthly rental, relocation and removal of all terminal and line-related equipment.
- C) Pay the cost of a dedicated communications line (a line to which no other agency is connected).

CAUTION: The cost of a dedicated line is based on the distance between the local terminal and the LEADS Data Center, and on the data transmission rate desired. This cost is frequently much higher than local agencies anticipate and has resulted in significant changes to agency plans.

- D) Pay the cost of connecting the communications line to the transmission control unit at the LEADS Data Center.
- E) Pay the cost of all design work, programming and maintenance associated with the terminal equipment. (Maintenance of the communications line is included in the monthly line charge.)
- F) Pay all expenses resulting from problems which are caused by the terminal equipment.
- G) Provide operating and administrative personnel at the terminal location.
- H) Provide training of agency personnel in the use of terminal equipment.
- I) Insure that an individual agency's system will provide access to all authorized LEADS files and services, and permit the agency's operator to perform all functions that may be performed on fully-supported equipment. The only exception is the service of on-line entry of Uniform Crime Reports (I-UCR) data which the agency may elect not to provide.
- J) Absorb all costs for reprogramming and equipment modifications which become necessary to keep in step with changes made at the LEADS Data Center. (See Section

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1240.130(b) of this Part.)

CAUTION: LEADS is constantly being changed. New capabilities are added frequently. An agency operating in the Non-Supported Environment must be prepared to absorb the costs necessary to provide all of the same services LEADS provides to fully-supported terminals. Electing not to supply all services offered by LEADS (with the exception of on-line I-UCR data entry) is in violation of this Part.

- K) Absorb the expense of travel, lodging and meals incurred by agency and vendor representatives who attend training sessions, conferences, etc., unless otherwise stipulated by DLE.

## f) Agency Supplies Standard Equipment -- Semi-Supported Environment

An agency will qualify for nearly full support when it obtains equipment from its own sources which is identical to equipment offered through DLE.

## 1) The Department of Law Enforcement will:

- A) Place all orders for the installation, relocation or removal of the communications lines and related equipment (modems).
- B) Make all technical services arrangements for installation, maintenance, relocation and removal of the communications lines and equipment.
- C) Perform all system analysis, design and programming required at both the Data Center and the terminal.
- D) Absorb all costs related to the computer equipment at the Data Center.
- E) Provide training for terminal operators and interested administrative personnel representing the participating agency.
- F) Provide a reference manual, publications, notices and special bulletins.
- G) Provide assistance towards the solution of operational problems.

## 2) The Semi-Supported agency will:

- A) Meet with DLE if requested to do so.
- B) Make all arrangements for installation, relocation, maintenance and removal of the terminal equipment.
- C) Assume all responsibility for contractual agreements with the terminal vendor and all related expenses.
- D) Provide operating and administrative personnel at the terminal site.
- E) Absorb the cost of travel, lodging and meals for its own personnel attending training sessions, conferences, etc., unless other funding is provided to the agency.
- F) Notify DLE in writing and receive approval from DLE prior to any change being made to the terminal equipment.
- G) Notify DLE in writing and receive approval from DLE prior to connecting the equipment to or disconnecting it from LEADS.

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- H) Bear the expense of changes to the terminal equipment made necessary by changes to LEADS.

AGENCY NOTE: All written communications necessary for the above must be addressed to LEADS Administrator, Department of Law Enforcement, 501 Armory Building, Springfield, Illinois 62706.

## g) Mobile Terminals

- 1) "Mobile Terminal" Defined -- A mobile terminal is a device installed in a vehicle which has the capability to send and/or receive digital messages. There are two basic types in use:

- A) the receive-only teleprinter which has no typewriter-like keyboard.  
B) the two-way mobile terminal which lets the officer type out and send messages from the vehicle as well as to receive messages.

- 2) Mobile Terminal Regulations -- Both types of mobile terminals, when used to send data to and/or to receive data from LEADS, are governed by the regulations for the Non-Supported Environment covered in paragraph (e) of this Section. In addition, the following requirements must be met by the agency participating in LEADS:

- A) Before requesting bids for any mobile terminal equipment, the LEADS Administrator must be notified in writing of:

- i) the fact that mobile terminals are being planned,  
ii) the type of mobile terminal,  
iii) the number of mobile terminals to be installed, and  
iv) the installation date.

- B) If called for by the LEADS Administrator, the agency must meet with the LEADS Staff.

- C) The agency must satisfy the BHBS Administrator that safeguards will be employed to guarantee that Computerized Criminal History (CCH) data may neither be directly requested nor received at any mobile terminal. Prior to any transmission of Computerized Criminal History (CCH) data to an agency's mobile terminals, the agency must receive written approval from the LEADS Administrator and the Chief of the Bureau of Identification of the Illinois State Police. Approval shall be granted only if the LEADS Administrator and the Chief of the Bureau of Identification of the Illinois State Police are satisfied that safeguards will be employed to ensure that CCH data transmitted to mobile terminals will not be accessed or viewed by any individual not authorized by law to utilize CCH data. The agency must insure that all officers and other personnel who operate a mobile terminal understand and comply with Section 1240.90 of this Part--Dissemination of Data Obtained Through LEADS.

- E) The agency must insure that all mobile terminals are secure at all times from use by unauthorized personnel.

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(Source: Amended at 12 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



DEPARTMENT OF AGRICULTURE  
NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Organizational Chart, Description, Rulemaking Procedure, and Programs
- 2) Code Citation: 2 Ill. Adm. Code 700
- 3) Section Numbers: Adopted Action: Appendix D Amended
- 4) Statutory Authority: Soybean Marketing Act (Ill. Rev. Stat. 1987, ch. 5, pars. 565 and 575)
- 5) Effective Date of Amendments: December 8, 1988
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: November 23, 1988
- 9) Notice(s) of Proposal Published in Illinois Register: No notice of proposed rulemaking is required for rules filed pursuant to Section 4.01 of the Illinois Administrative Procedure Act.

- 10) Has JCAR issued a Statement of Objections to these rule(s)? No
- 11) Difference(s) between proposal and final version: N/A
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Because this is internal rulemaking, there is no agreement letter.
- 13) Will this amendment replace an emergency amendment currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: Section 15 of the Act requires that the Director file any amendment to the program with the Secretary of State and that such amendment shall be included in the rules of the Department as required by Section 4.01 of The Illinois Administrative Procedure Act. In July of this year, soybean producers adopted an amendment to the program to require an assessment be made and levied on all soybeans grown outside Illinois but sold to a first purchaser in Illinois.

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- 16) Information and questions regarding this adopted amendment shall be directed to:
- Name: Donna Garman  
Address: Division of Administrative Services, Illinois Department of Agriculture, Agriculture Building, State Fairgrounds, Springfield, Illinois 62794-9281  
Telephone: (217) 785-0112

The full text of Adopted Amendments begins on the next page:

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE D: CODE DEPARTMENTS  
CHAPTER I: DEPARTMENT OF AGRICULTURE

PART 700  
ORGANIZATIONAL CHART, DESCRIPTION, RULEMAKING PROCEDURE,  
AND PROGRAMS

SUBPART A: DESCRIPTION OF THE DEPARTMENT OF AGRICULTURE

Section  
700.10 Scope of the Department of Agriculture  
700.20 Division of Administrative Services  
700.30 Division of Animal Industries  
700.40 Division of Marketing  
700.50 Division of Plant Industries and Consumer Services  
700.60 Division of Fairs and Horse Racing  
700.70 Division of Natural Resources  
700.80 Statutorily Established Advisory Boards and Committees

SUBPART B: ORGANIZATIONAL CHART

Section  
700.100 Illinois Department of Agriculture Organization Chart

SUBPART C: REQUEST FOR INFORMATION

Section  
700.110 Information About Programs, Activities, Laws and Rules  
700.120 Information On Employment

SUBPART D: PROGRAMS (LAWS) ADMINISTERED  
BY THE DEPARTMENT OF AGRICULTURE

Section  
700.130 Code Indicating Administrative Enforcement  
700.140 Statutes Administered by the Department of Agriculture

SUBPART E: RULES AND REGULATIONS  
DEPARTMENT OF AGRICULTURE

Section  
700.150 Rules and Regulations Promulgated by the Department  
of Agriculture

SUBPART F: PROVISIONS AND PROCEDURES GOVERNING THE  
PROMULGATION OF RULES AND REGULATIONS

Section  
700.160 General, Emergency, and Peremptory Rules; Internal  
Rules (Agency's Organization, Description and Rule-  
making Procedures)  
700.170 Public Participation and Comments  
700.180 Consideration of Rules by Advisory Boards  
700.190 Public Comment Period; Submission of Written Comments;  
Extending the Public Comment Period  
700.200 Public Hearing Procedure  
700.210 Director's Decision  
700.220 Second Review Period; Final Disposition of Rulemaking  
700.230 Computing Time  
700.240 Interested Person May Request Rulemaking

SUBPART G: RULEMAKING FLOW CHARTS

Section  
700.300 General Rulemaking Initiated by Department  
700.310 Rulemaking Requested by Advisory Board or Committee  
700.320 Emergency or Peremptory Rulemaking by Department

APPENDIX A Marketing Program for Illinois Apples and Peaches  
APPENDIX B Marketing Program for Illinois Corn and Corn Products  
APPENDIX C Marketing Program for Illinois Eggs  
APPENDIX D Marketing Program for Illinois Soybeans and Soybean  
Products

AUTHORITY: Implementing and authorized by Section 4.01 of The  
Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987  
4985, ch. 127, par. 1004.01); Appendix A implementing and author-  
ized by the Apple and Peach Marketing Act (Ill. Rev. Stat. 1987  
4985, ch. 5, pars. 351 et seq.); Appendix B implementing and  
authorized by the Illinois Corn Marketing Act (Ill. Rev. Stat.  
1987 4985, ch. 5, pars. 701 et seq.); Appendix C implementing and  
authorized by the Egg Market Development Act (Ill. Rev. Stat.  
1987 4985, ch. 5, pars. 503 et seq.); Appendix D implementing and  
authorized by the Soybean Marketing Act (Ill. Rev. Stat. 1987  
4985, ch. 5, pars. 551 et seq.).

SOURCE: Rules and Regulations Relating to The Administrative Pro-  
cedure Act, filed December 30, 1977, effective January 15, 1978;  
amended at 5 Ill. Reg. 10257, effective September 29, 1981, codi-  
fied at 2 Ill. Adm. Code 450 at 5 Ill. Reg. 10255; amended at 5  
Ill. Reg. 13418, effective November 24, 1981; amended at 6 Ill.  
Reg. 11826, effective September 21, 1982; amended at 7 Ill. Reg.  
9147, effective July 26, 1983; amended at 8 Ill. Reg. 13124,  
effective July 12, 1984; amended at 10 Ill. Reg. 13188, effec-  
tive July 25, 1986. Rules and Regulations Relating to the Proce-



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dures for the Establishment of an Apple and Peach Marketing Program, filed and effective March 10, 1972; amended at 4 Ill. Reg. 19, p. 181, effective April 28, 1980; codified as 8 Ill. Adm. Code 300 at 5 Ill. Reg. 10547; Part repealed at 6 Ill. Reg. 10908, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11154, effective August 31, 1983. Corn Marketing Program adopted at 3 Ill. Reg. 47, p. 72, effective November 9, 1979; codified as 8 Ill. Adm. Code 310 at 5 Ill. Reg. 10549; Part repealed at 6 Ill. Reg. 10909, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 3407, effective March 21, 1983. Rules and Regulations Relating to the Procedures for the Establishment of an Egg Marketing Program, filed January 3, 1973, effective January 13, 1973; codified as 8 Ill. Adm. Code 320 at 5 Ill. Reg. 10551; Part repealed at 6 Ill. Reg. 10915, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11171, effective August 31, 1983. Rules and Regulations Relating to Procedures for the Establishment of a Soybean Marketing Program, filed March 20, 1974, effective April 1, 1974; amended May 2, 1974, effective May 12, 1974; codified as 8 Ill. Adm. Code 330 at 5 Ill. Reg. 10553; Part repealed at 6 Ill. Reg. 10916, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11189, effective August 31, 1983. 2 Ill. Adm. Code 450 recodified to 2 Ill. Adm. Code 700, 8 Ill. Adm. Code 300 recodified to 2 Ill. Adm. Code 700, Appendix A, 8 Ill. Adm. Code 310 recodified to 2 Ill. Adm. Code 700, Appendix B, 8 Ill. Adm. Code 320 recodified to 2 Ill. Adm. Code 700, Appendix C, and 8 Ill. Adm. Code 330 recodified to 2 Ill. Adm. Code 700, Appendix D at 11 Ill. Reg. 15602, effective September 10, 1987; amended at 11 Ill. Reg. 18605, effective October 28, 1987; amended at 12 Ill. Reg. 6648, effective March 25, 1988; amended at 12 Ill. Reg. 22135, effective December 8, 1988.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

# Section 700.APPENDIX D Marketing Program For Illinois Soybeans and Soybean Products

Agency Note: Section 15 of the "Soybean Marketing Act" (Ill. Rev. Stat. 1987 ~~498~~<sup>498</sup>, ch. 5, par. 565) requires any soybean marketing program that is approved by Illinois soybean producers through referendum to be filed by the Department of Agriculture as provided in Section 6 of the "Illinois Administrative Procedure Act" (Ill. Rev. Stat. 1987 ~~498~~<sup>498</sup>, ch. 127, par. 1006). The filing of the adopted program is exempt from the rulemaking requirements of Sections 5 and 5.01 of the "Illinois Administrative Procedure Act" and the program is exempt from review under Sections 7.04, 7.05, 7.06, 7.07, 7.07a and 7.08 of the "Illinois

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Administrative Procedure Act." In 1974, a Marketing Program For Illinois Soybeans and Soybean Products was approved through referendum. In 1988, an amendment to Article VIII of the Marketing Program was added.

## ARTICLE I

## PURPOSE:

This program is developed to enable Illinois soybean producers to coordinate more effectively the maintenance and development of markets for soybeans and soybean products; to provide for the needed production and utilization research; to develop new uses for soybeans and soybean products; and to provide for more efficient and economical production.

To accomplish this objective, it is essential to provide procedures for the development of new and larger markets for soybeans; to provide procedures to engage in research directed toward more efficient utilization and production of soybeans; to provide procedures to support world-wide market development programs and cooperate with other states, organizations, agencies, and persons in market development, market information, and research programs; and to provide procedures to elect an initial producer board and its successors to operate this program.

## ARTICLE II

## AUTHORITY:

This marketing program for Illinois soybeans, its procedures, and regulations, is established pursuant to "An Act in relation to soybean marketing programs," being Public Act No. 78-739, approved September 11, 1973.

## ARTICLE III

## PROGRAM EXTENT:

All producers of soybeans in Illinois are qualified to participate and all soybeans sold to a first purchaser are subject to the program.

## ARTICLE IV

## DEFINITIONS:

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Terms used in this marketing program shall be defined in the Act and as follows unless context clearly requires otherwise:

- (a) "Act" means an act in relation to soybean marketing programs, Public Act No. 78-739, approved September 11, 1973.
- (b) "Soybean" means and includes all kinds of varieties of soybeans grown in this State and marketed and sold as soybeans by the producer.
- (c) "Person" means any natural person, partnership, corporation, society, association, representative or other fiduciary.
- (d) "Producer" means any person engaged in this State in the business of producing and marketing soybeans and who is affected by this program by virtue of having the first right of ownership in any soybeans for which payment is received at the first point of sale.
- (e) "First Purchaser" means any person who resells soybeans purchased from a producer or offers for sale any product produced from such soybeans for any purpose.
- (f) "Market Development" means to engage in research and educational programs directed toward better and more efficient utilization of soybeans; to provide methods and means for the maintenance of present markets; for the development of new and larger domestic and foreign markets.
- (g) "Marketing Program" means any program established under this Act which prescribes rules, regulations and procedures for the development of markets for soybeans and soybean products.
- (h) "Program Operating Board" means the board established by any marketing program to administer such programs.
- (i) "Director" means the Director of the Department of Agriculture of the State of Illinois.
- (j) "Department" means the Department of Agriculture of the State of Illinois.
- (k) "Bushei" means 60 pounds of soybeans by weight.

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- (1) "District" means the geographical divisions of the State established pursuant to this marketing program.
- (m) "Sale" or "Sold" means a transaction wherein the property in or to soybeans is transferred from the producer to a first purchaser for consideration.
- (n) "Eligible Voter" means one who is defined both as a person and as a producer in this program.
- (o) "Affected Producers" means any person defined as a producer in this program who is subject to the assessment.

## ARTICLE V

## PROGRAM OPERATING BOARD:

## Section 1. Establishment and membership.

A program operating board is hereby established with powers and duties as authorized pursuant to the Act and this program. The Board shall be comprised of 18 members elected from districts as provided in Section 2 of this Article. The 18 members shall be elected, one from each district.

## Section 2. Representative Districts.

For the purpose of nomination and election of members to the Board, the territory of the State of Illinois shall be divided into 18 representative districts as follows:

- District 1: Jo Daviess, Stephenson, Winnebago, Boone, Carroll, Ogle, DeKalb, and Lee Counties.
- District 2: McHenry, Lake, Kane, Cook, DuPage, Will, and Kankakee Counties.
- District 3: Whiteside, Rock Island, Henry, Mercer, Henderson, Stark, and Warren Counties.
- District 4: Bureau, LaSalle, Grundy, and Kendall Counties.
- District 5: Knox, Peoria, Marshall, Putnam, Fulton and Tazewell Counties.



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District 6: Woodford, Livingston and McLean Counties.

District 7: Ford, Iroquois, and Vermilion Counties.

District 8: Hancock, McDonough, Adams, Brown, and Schuyler Counties.

District 9: Mason, Logan, Cass, Menard, Morgan, and Sangamon Counties.

District 10: DeWitt, Macon, Christian, Moultrie, and Shelby Counties.

District 11: Piatt, Champaign, Douglas, Edgar, and Coles Counties.

District 12: Pike, Scott, Calhoun, Greene, Macoupin, and Jersey Counties.

District 13: Montgomery, Bond, Fayette, and Marion Counties.

District 14: Cumberland, Clark, Effingham, Jasper, and Crawford Counties.

District 15: Madison, Monroe, St. Clair, and Clinton Counties.

District 16: Clay, Richland, Lawrence, Wayne, Edwards, White, and Wabash Counties.

District 17: Randolph, Washington, Jefferson, Perry, and Jackson Counties.

District 18: Franklin, Hamilton, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac Counties.

## Section 3. Board Membership Qualifications.

Board members shall be residents of the State of Illinois, of legal voting age, and be subject to the program. Board members shall be affected producers of soybeans in this State subject to the assessment in the district in and for which they are nominated and elected. The qualification of members as set forth

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herein must continue during their term of office or their office shall be declared vacant.

## Section 4. Term of Office.

The term of office of a board member shall be three years or until his successor is elected and qualified except for the initial board which shall be as provided in Section 5 of this Article.

A term of office shall terminate on July 31st of the year in which the board member's office expires.

No producer shall serve as board member for more than two consecutive three-year terms of office.

## Section 5. Initial Board.

The initial 18-member board shall be elected on the same ballot and at the same time the referendum is held on this marketing program.

The term of office for each initial board member shall be determined by drawing at the first meeting of the board. The term of office established by the drawing shall be the term of office for the member's representative district. These initial terms of office shall be as follows: There shall be six terms which shall expire July 31, 1975; there shall be six terms which shall expire July 31, 1976; there shall be six terms which shall expire July 31, 1977.

When the initial term of office expires in a district, an election shall be held as provided in this program and the Act to fill the vacancy.

## Section 6. Nominations.

A. Procedure for nominating candidates for election to the initial board:

Any affected producer may become a candidate from his district and have his name placed on the ballot if he files a petition with the Director containing the signatures of 250 or 5 per cent, whichever less, of those eligible voters in his district qualified to vote on the referendum. The petitions to become a candidate for board member

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must be filed with the Director by May 15th of the year in which the election is to be held in that district. Notification to all affected producers of an election shall be published in the official state newspaper and made available to newspapers of general circulation and other news media throughout the State. Petitions for becoming a candidate shall be available at the principal office of the Cooperative Extension Service serving each county and upon request from the Director. Position of candidates' names on the ballot to become a board member shall be determined by lot by a drawing by the Director. Candidates shall be notified of the time and place where such drawing shall occur. Voting shall be held at geographically located polling places throughout the district.

#### B. Subsequent Years. Procedure for Nominating Candidates to the Board in Subsequent Years:

Each district having a vacancy on the board by an expiring term shall hold an election to fill such vacancy. The election shall be held during July of the year in which the vacancy exists. Any affected producer may become a candidate from his district and have his name placed on the ballot for which a vacancy exists if he files a petition with the Director containing the signatures of 250 or 5 per cent, whichever less, of affected producers from his district. Petitions to become a candidate for board member must be filed with the Director by May 15th of the year in which the election is to be held in that district. Notification to all affected producers in the district where a vacancy exists shall be published in the official state newspaper and made available to newspapers of general circulation in that district and to all other news media in that district. Notification shall be given no earlier than April 1st nor later than April 15th in the district where vacancy on the board will occur. Petition for becoming a candidate shall be available at each principal county office of the Cooperative Extension Service in the district where a vacancy exists and upon request from the Director. Position of the candidates' names on the ballot shall be determined by lot by a drawing by the Director.

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Candidates shall be notified of the time and place where such drawing shall occur. Voting shall be held at geographically located polling places throughout the district.

#### Section 7.

##### A. Election of Initial Board.

The election of the initial Board shall be on the same ballot and at the same time as the referendum on the question of adoption of the program. Each eligible voter shall be entitled to one vote and shall be entitled to vote for one candidate to be such producer's district representative on the program operating board.

The candidate from each district receiving the greatest number of votes in the election shall be the district's representative on the board. In case of a tie, the winner will be determined by drawing. The elected board member will take office immediately upon approval of the program. Each eligible voter shall vote at the local Cooperative Extension Service office serving the county in which such eligible voter resides.

##### B. Election of board in subsequent years.

The election of board members in districts where a vacancy occurs due to an expiring term shall be conducted by the program operating board. Nominations shall be as set forth in Section 6(B) of the program. The elected board member shall take office on August 1st of the year in which such board member is elected.

#### Section 8. Powers and Duties of the Board.

The board shall have the following powers and duties:

- (a) to administer, enforce, direct, and control provisions of this program as its administrative board pursuant to the authority contained in the Act;



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- (b) to annually establish priorities and to prepare and approve a budget consistent with estimated resources and scope of the marketing program;
- (c) to formulate and execute assessment procedures, rates, methods of collection;
- (d) to procure and evaluate data and information necessary for the proper administration and operation of marketing program;
- (e) to employ personnel and contract for services which are necessary for the proper operation of the marketing program;
- (f) to authorize the expenditure of funds and the contracting of expenditure to conduct proper activities of the program;
- (g) to provide for an independent audit to be made and be available to all program participants;
- (h) to publish annually, upon completion of and at the same time of the audit, an Activities and Financial Report and make available to all affected producers;
- (i) to elect a chairman, vice chairman, secretary and treasurer and other such officers as it deems necessary;
- (j) to take steps to insure that adequate bonds are maintained and to insure adequate protection of funds;
- (k) to confer and cooperate with legally constituted authorities of other states and the United States;
- (l) to accept donations, gifts, and other properties to be used for program purposes;
- (m) to receive and investigate or cause to be investigated complaints and violations of this program and the Act and to take such action as is necessary within its authority;

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- (n) to establish accounts in adequately protected financial institution to receive, hold and disperse program monies;
- (o) to approve and recommend desirable amendments to the program;
- (p) to establish procedure to refund to a producer any assessment paid by such a producer if he requests such a refund; and
- (q) to perform such other duties which may be necessary to proper operation of the board.

## Section 9. Limitation of Liability of Board Members and Employees.

Obligations incurred by the board and any other liabilities or claims against the board shall be enforced only against the assets of the board in the same manner as if it were a corporation and no liability for the debts or actions of the board shall exist against either the State of Illinois or any subdivision or instrumentality thereof or against any board established pursuant to the Act or the assets thereof or against any member, officer, employee, or agent of the board in his individual capacity. The members of the board, including employees thereof, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, person, or employee except for their own individual acts which result in a violation of any law. No such person or employee shall be held responsible individually for the act or omission of any member of the board. The liability of the members of the board shall be several and not joint and no members shall be liable for the default of any other member.

## Section 10. Board Vacancies. Procedure for filling:

Vacancies occurring on the board during an unexpired term of office shall be filled by the board with an appointee who is a qualified producer from the district affected by the vacancy. The appointee shall serve as the district's representative on the board for the unexpired term.

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## Section 11. Board Compensation.

"All voting members of the program operating board are entitled to actual and necessary travel and incidental expenses while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board." 1

- 1 Quote from Section 12 of "An Act in relation to Soybean Marketing Program," being Public Act No. 78-739, approved September 11, 1973.

## ARTICLE VI

## REFERENDUMS AND ELECTIONS:

## Section 1.

The Director shall hold referendums as they pertain to this program as provided for in such Sections as 8, 10 and 13 of the Act.

All referendums shall be by a ballot cast at the local Cooperative Extension Service office serving the area in which such eligible voter resides, except as otherwise provided in this Article.

The initial program adoption referendum shall provide for the question of adoption of the program with a place to vote "yes" or "no" and shall also provide for the election of the initial members of the program operating board. The referendum ballot used in each district will contain only the name(s) of the candidate(s) for its district with space provided for a write-in candidate.

A program or an amendment to a program is approved when a majority of the statewide total of those voting in the referendum vote in favor of such program or amendment to a program.

## Section 2. Qualification to Vote.

Any person who is defined as a producer in this program shall be entitled to one vote. Such eligible voter shall be required to sign an affidavit for ballot declaring that such person is eligible to participate in the program. Such eligible voter shall be entitled

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to vote only at the principal office of the Cooperative Extension Service which serves the county in which such eligible voter resides.

Eligible voters who reside outside the State of Illinois or eligible voters within the State who expect to be absent from their county of residence on the day of any referendum held under this Article may request an absentee ballot.

## Section 3. Absentee Ballot.

The Director shall provide to any eligible voter an absentee ballot upon request beginning thirty (30) days prior to the referendum for approval of the initial program or any subsequent election of directors where a vacancy exists. Any eligible voter requesting an absentee ballot shall be required to file with the Director a notarized affidavit swearing that such eligible voter is eligible to vote on the initial referendum or in the election of board members. Such affidavit shall be available upon request from the Director. All absentee ballots and affidavits shall be returned to the Director at least two (2) working days prior to any referendum or election.

## Section 4. Election Judges.

The Director shall appoint a three-man committee to serve as election judges and to count ballots and determine the results of the referendum at the principal county office of the Cooperative Extension Service.

## Section 5. Teller Committee.

The Director shall appoint a teller committee to count absentee ballots, canvass and certify results of referendums and elections of district candidates.

## ARTICLE VII

## PROGRAM:

Section 1. Market Development, Promotion, and Public Relation Programs.

The board, subject to the provisions of this program and the Act, is authorized to contract with or make



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grants to any qualified organizations, agencies, or persons for any market development and promotion activities, education and public relations programs or market information services which will result in the opening of new markets for soybeans and soybean products, or which will result in the expansion of existing markets. These activities may include, but not be necessarily limited to the following:

- (1) Preparation and dissemination of marketing information to include supply information, demand information, quality characteristics, and other facts concerning soybeans and soybean products.
- (2) Provide information to foreign feed manufacturers and soy oil refiners for the purpose of expanding their use of soybeans and soybean products.
- (3) Work with U. S. agricultural attaches in removing restrictive foreign regulations which limit markets for soybeans and soybean products.
- (4) Participate in trade fairs, exhibitions, food shows, and other such activities for the purpose of developing markets.

Section 2. Research.

The board, subject to the provisions of this program and the Act, is authorized to contract with or make grants to any qualified organizations, agencies, or persons for any needed production, utilization, distribution or handling research or survey studies related to soybeans and their products which will result in improved efficiency and aid soybean producers in maintaining present and any new and larger markets.

Such research and survey studies may include, but shall not be necessarily limited to the following:

- (1) Production research on such things as cultural practices, pest and insect control, weed and disease control, soil and fertility management, genetic research, plant pathology, micro biology, plant physiology, collection of new germ plasm, etc.

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- (2) Improving techniques and methods for planting and harvesting.
- (3) Improving storage, handling, and drying techniques.
- (4) Investigating transportation problems involving movement of soybeans to market.
- (5) Utilization research such as developing new uses of soybeans and soybean products for human food and nutrition, determine chemical levels to protect soybean meal from rumen degradation in livestock feed, and research on industrial oil products, etc.

Section 3. Educational Program.

The board is authorized to contract with or make grants to any qualified organizations, agencies, or individuals for any educational materials and educational programs pertaining to soybeans and their products.

The educational program established pursuant to authority shall emphasize the results of research, market development, and other programs sponsored, supported, or otherwise implemented by or for the board.

ARTICLE VIII

ASSESSMENTS:

Section 1. Assessment Levied.

- A. All assessments made and levied pursuant to the provisions of the Act and the program shall be paid by the respective affected producers who shall be liable therefore as provided by Sections 16, 16.1 and 20 of the Act. Assessments shall be made and levied on all soybeans grown outside Illinois but sold to a first purchaser in Illinois.
- B. Such assessments shall not exceed 1/4c per bushel of soybeans produced and sold by such affected producer during the first year of operation of the program and shall not exceed 1/2c per bushel of soybeans produced and sold by such affected producer in all subsequent years of operation of the program.

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C. Such assessment shall be collected from the affected producers by the first purchaser of soybeans and such first purchaser shall deduct the full amount of assessment from total monies due to the producer and shall account for, report on, and remit to the board all monies collected. Such monies collected shall be remitted quarterly and shall be made by the 15th of the month following the end of each quarter. Such quarters shall end March 31, June 30, September 30, and December 31 of the year in which assessment is due. If remittance of assessment by first purchaser is made by the 15th of the month following the end of the quarter, such first purchaser making remittance shall be entitled to retain two per cent (2 per cent) of such remittance due.

D. Any producer who shall sell, ship or otherwise dispose of soybeans to a first purchaser or other person outside the jurisdiction of this marketing program shall forthwith remit to the board the full amount of the assessment due.

E. The board shall establish regulations and procedures to insure the collection of such assessments as shall be due and payable under this marketing program.

F. The board shall give reasonable notice to all producers, processors, and handlers of all changes in regulations and procedures and any amendments thereto for the collection of the assessment.

## ARTICLE IX

## RIGHT OF REFUND:

## Section 1.

A. Any affected producer may request that each assessment paid by him be refunded.

B. A refund shall be payable upon request. Such request shall be made to the board not more than sixty (60) days after the deduction has been made or not more than sixty (60) days after the remittance has been made by the first purchaser.

C. The board shall establish regulations and procedures to insure the refund of such assessment as are requested.

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## ARTICLE X

## FUNDS:

## Section 1.

The board shall deposit all monies collected pursuant to this program in an account as established in Article V of this program. Expenses and disbursements incurred and made pursuant to the Act and this program shall be made by voucher, draft or check bearing the signature of the treasurer and one other person designated by majority vote of the board, which person shall be either a member or an employee of the board.

## Section 2.

Monies collected by the board pursuant to the Act and this program as assessments shall be used by the board only for the purpose of paying for the costs or expenses arising in connection with carrying out the purpose and provisions of the Act and this program.

## ARTICLE XI

## INFORMATION REPORTS:

All persons subject to this program and the Act shall make and render such reports and furnish such information to the Director and the board as may be necessary or required to effectuate the purposes thereof. Information obtained by any person pursuant to this Article shall be confidential and shall not be disclosed to any other person, save a person with the right to obtain the same or any attorney employed by the board to give legal advice thereon or by court order.

## ARTICLE XII

## RULES AND REGULATIONS:

## Section 1.

A public hearing must be held on all rules and regulations before they are adopted by the board or the Department. Public notice of such hearings shall be in accordance with "An Act in relation to meetings," approved July 11, 1957, as amended (Chapter 102, Paragraph 41 et seq., Illinois Revised Statutes).



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## Section 2.

All rules and regulations adopted by the board pursuant to the program shall be presented to the Director for approval. Rules and regulations adopted by the board and approved by the Director and any rules and regulation promulgated by the Director shall be filed in accordance with "An Act concerning administrative rules," approved June 14, 1951, as amended (Chapter 127, Paragraph 263 et seq., Illinois Revised Statutes).

## Section 3.

All rules and regulations promulgated pursuant to the Act shall be made available to those persons affected by this program and the Act.

## ARTICLE XIII

## APPEALS:

## Section 1.

Any person subject to this program may appeal to the board to review any administrative decision. Any such appeal must be filed in writing setting forth the facts upon which it is based.

## Section 2.

Pending the disposition of any appeal set forth in Section 1 of this Article, the party shall abide by the decision unless the board shall rule otherwise. The board shall, if the facts stated show reasonable grounds, revise any order or decision upon which an appeal is taken.

## ARTICLE XIV

## A DEROGATION:

Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Director or of the State to exercise any powers granted by the Act or otherwise, and in accordance with such powers to act in the premises whenever such action is deemed advisable.

## ARTICLE XV

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## COOPERATION WITH OTHER AGENCIES:

The board, with the assistance of the Director and subject to the provisions of the Act, is authorized to cooperate with agencies of the United States government, the State of Illinois, and other states as deemed by the board and the Director to be desirable and useful in effectuating the purposes of this program and Act.

(1) Coordination and cooperation in promotion, advertising, educational programs, informational programs, disease control and research, marketing and transportation research, and any of the several areas of authority authorized by the program and the Act.

(2) Coordination of purposes with other boards, commissions, or any other marketing group in the State or other states, areas, or foreign countries so long as such cooperation is in the best interest of the soybean producers of Illinois.

## ARTICLE XVI

## EFFECTIVE TIME:

This marketing program and any amendments thereto shall become effective immediately upon their being approved by referendum and shall continue in effect for five (5) years and shall automatically be extended from year to year unless a referendum for continued approval is requested by written petition of no less than 2 per cent of soybean producers affected by the program as published in the Illinois Agricultural Statistics Annual Farm Census being published by the Illinois Cooperative Reporting Service. Such referendum is to be held in accordance with Section 10 of the Act.

## ARTICLE XVII

## SEVERABILITY:

If any provision of the marketing program or the Act shall be declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this marketing program or the Act or the applicability thereof to any person, circumstance or thing shall not be affected.

## ARTICLE XVIII

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Section 1.

"All assessments on soybeans marketed are due and payable to the board. Any due and payable assessment required under the provisions of any program created under this Act constitutes a personal debt of every person so assessed or who otherwise owes such assessment. Such assessment is due and payable to the board when payment is stipulated in the program and called for by the board. In the event any person fails to remit the full amount of such due assessment or such other sum within 30 days after the due date, the person owing such assessment shall be given an opportunity to present his case as provided for in Section 22 of the Act. When established that the assessment is correct, the board may add to the unpaid assessment or sum a penalty amount not exceeding 10 per cent of the amount due to defray the cost of enforcing the collection of the assessment or sum due. In the event of failure of a person to remit any properly due assessment or sum, the board may bring civil action against such person in the Circuit Court of any county for collection thereof, together with the above additional specified 10 per cent penalty assessment and court costs. Such action shall be tried and judgment rendered as in any other cause of action for debts due and payable."<sup>2</sup>

Section 2.

"No person shall knowingly fail or refuse to comply with any requirement of this Act where obligated to comply by a duly approved marketing program. The board may institute any action which is necessary to enforce compliance with this Act, any rule or regulation thereunder or any program adopted pursuant to this Act. In addition to any other remedy provided by law the board may petition for injunctive relief without being required to allege or prove the absence of any other adequate remedy at law. Such action shall be brought in the Circuit Court of any county.

Before the board may institute any proceedings under this Act, the alleged violator shall first be given an opportunity to present his views to the board as to why such proceedings should not be instituted."<sup>3</sup>

2 Quote from Section 20 of "An Act in relation to Soybean Marketing Program," being Public Act No. 78-739, approved September 11, 1973.

3 Quote from Section 22 of "An Act in relation to Soybean Marketing Program," being Public Act No. 78-739, approved September 11, 1973.

(Source: Amended at 12 Ill. Reg. 22135, effective December 8, 1988).



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- 1) The Heading of the Part: Metropolitan Civic Center Support Program
- 2) Code Citation: 14 Ill. Adm. Code 500
- 3) Section Numbers: Adopted Action:  
500.60 Amendment  
500.90 Amendment
- 4) Statutory Authority: Implementing Section 4 of the Metropolitan Civic Center Support Act (Ill. Rev. Stat. 1987, ch. 85, par. 1394) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.42).
- 5) Effective Date of Amendments: December 8, 1988
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Do these amendments contain incorporations by reference? No.
- 8) Date Filed in Agency's Principal Office: December 9, 1988.
- 9) Notice of Proposal Published in Illinois Register: June 3, 1988, 12 Ill. Reg. 9275.
- 10) Has JCAR issued a Statement of Objections to these amendments? No.
- 11) Differences between proposal and final version:  
Throughout the text of the rulemaking capitalized the first letter of "Applicant" wherever it was not already capitalized.  
Section 500.60  
Inserted semicolons after subsections (d)(4)(A), (B), (C), and (D).  
Replaced the period at the end of subsection (d)(10) with a semicolon.  
Replaced the colon at the end of subsection (d)(11) with a semicolon.  
Deleted "and," at the end of subsection (e)(13).  
Section 500.90(b)(5)(I)  
Rewrote the first sentence in part to read "Maintenance of insurance with insurers, authorized to do business in the State, to cover the loss of or damage to the entire project..."  
In the last sentence replaced "the Structural Work Act of June 3, 1907" with "AN ACT providing for the protection and safety of persons in and about the construction, repairing, alteration, or removal of buildings, bridges, viaducts, and other structures, and to provide for the

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- enforcement thereof."
- Section 500.90(b)(5)(L)  
In the eighth line inserted "(as determined by the architect)" after "facility".
- Section 500.90(b)(5)(O)  
In the fifth line inserted "Illinois" before "Grant Funds Recovery Act".
- In the sixth line inserted ", as amended by P.A. 85-1214, effective August 30, 1988" after "et seq.".
- Section 500.90(b)(5)(P)  
In the second line inserted "(e.g., work stoppages, weather, delays in receiving materials" after "circumstances".
- Section 500.90(b)(5)(Y)  
Replaced the period at the end of the subsection with a semicolon.
- Section 500.90(b)(5)(DD)  
Replaced the period at the end of the subsection with a semicolon.
- Section 500.90(b)(7)  
Deleted the statutory citation to the Illinois Grant Funds Recovery Act.
- Replaced the period at the end of the subsection with a semicolon.
- Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- Will these amendments replace an emergency amendment currently in effect? No.
- Are there any amendments pending on this Part? No.
- Summary and Purpose of Amendments: These amendments to the Metropolitan Civic Center Support Program rules were initiated per agreements reached with the Joint Committee on Administrative Rules during a previous departmental rulemaking. Section 500.60 is being revised to include additional requirements of the program application. Section 500.90 is being amended to incorporate various provisions of the grant agreement.
- Information and questions regarding these adopted amendments shall be directed to:

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Mr. Dennis R. Whetstone, Deputy Director  
 Department of Commerce and Community Affairs  
 Bureau of Program Administration  
 620 East Adams Street, 5th floor  
 Springfield, Illinois 62701  
 (217) 782-6136

The full text of the Adopted Amendments begins on the next page:

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TITLE 14: COMMERCE  
 SUBTITLE C: ECONOMIC DEVELOPMENT  
 CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## PART 500

## METROPOLITAN CIVIC CENTER SUPPORT PROGRAM

Section	
500.10	Authority
500.20	Definitions
500.30	Computation of Time
500.40	Objectives
500.50	Eligibility
500.60	Form of Application
500.61	Pre-Application Consultation
500.70	Application Procedures
500.80	Department Review Procedures
500.90	Agreements
500.100	Project Changes
500.110	Provision for Amendment to This Part
500.120	Severability

**AUTHORITY:** Implementing the Metropolitan Civic Center Support Act (Ill. Rev. Stat. 1987, ch. 85, pars. 1391 et seq.) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.42).

**SOURCE:** Emergency rules filed and effective December 2, 1976; codified at 6 Ill. Reg. 15009; amended at 11 Ill. Reg. 10212, effective May 19, 1987; amended at 12 Ill. Reg. 22159, effective December 8, 1988.

## Section 500.60 Form of Application

- a) All communications relating to application procedures herein defined shall be sent to the Director of the Illinois Department of Commerce and Community Affairs, ATTN: Civic Center Support Program, 620 East Adams Street, Springfield, Illinois 62701.
- b) An application shall be in writing and in the approved format provided by the Department upon request.
- c) An application shall be submitted as one (1) original and three (3) copies.
- d) Information requested within the application includes the following:
  - 1) Legal name and address of Applicant;



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- 2) Amount of financial support in the base sum requested by the Applicant;
- 3) Name and type of proposed facility and project including address;
- 4) Names, addresses and telephone numbers of the following persons:
  - A) contact person;
  - B) architect, if selected;
  - C) construction manager, if selected;
  - D) counsel for applicant, if selected;
- 5) Data on Applicant eligibility, including type of authority, area of jurisdiction, area population, 1975 or 1983 equalized assessed valuation, date of preapplication consultation;
- 6) Summary of the enclosed economic feasibility and economic impact studies;
- 7) Brief description of the facility, including square footage, seating capacity and anticipated functions or activities;
- 8) A financial plan for funding the facility which must include the amount of State funding requested and the amount of local funding to be provided, with a list of the sources of local funding;
- 9) A proposed time schedule with estimated completion dates for the following activities:
  - A) design of facility, program and schematics, design development, working drawings and specifications;
  - B) construction bid packages;
  - C) financing for local bond sale, if applicable;
  - D) construction contract award;
  - E) construction start and completion;

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- 10) Project budget information, including estimates for professional fees, construction costs, site development costs, off-site work, permanently attached equipment, movable equipment, contingency, purchase of land, purchase of building(s), other expenses with explanation, and total project cost;
- 11) A five (5) year financial operating plan which includes a forecast of income and expenses with analytical justification for such forecast, plus an operating budget detailing administrative, operation, maintenance and promotional expenses and projecting net profit/loss. If a net loss is projected, the Applicant must designate the source of funds for payment of a deficit;
- 12) Provision for and information relating to principal and interest payments on a local bond issue, if applicable.
  - e) d) All documents and attachments submitted with the Application shall be submitted in the same order in which they appear in the Application format provided by the Department, and each page thereof must be sequentially numbered on the bottom right-hand corner beginning with page 1. The documentation shall include the following:
    - 1) A copy of the Act creating the Authority;
    - 2) Certification by the municipality(ies) or county(ies) of the most recent population count encompassing the area in which the Authority is located;
    - 3) Certification by the County Clerk(s) of the total assessed valuation for the area under the jurisdiction of the applicable Authority for 1975 and 1983;
    - 4) Legal opinion of Applicant's counsel which states:
      - A) the Authority is eligible to apply for, receive, and use State financial support pursuant to the Act;
      - B) there are no provisions in the Authority's charter, in the State or federal statutes, or in any municipal or local ordinance which prohibits the Authority from making application to the State to receive funding or from entering into an agreement to receive such funding; and
      - C) the Applicant's counsel has no knowledge of pending

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or threatened litigation, in either the State or federal courts which would adversely affect the application;

- 5) Certified copy of the resolution or ordinance authorizing this application;
- 6) Certified copy of the resolution, ordinance, or intergovernmental agreement authorizing the local share of the project;
- 7) Certification by the executive officer of the applicant that all information contained in the application is true and correct;
- 8) Certified copy of resolution, ordinance, or intergovernmental agreement authorizing payment of deficit in operating and maintenance costs if a deficit is projected;
- 9) Draft opinion of bond counsel as to the legality of the proposed local bond issue(s) if bonds are to be issued for the local share;
- 10) Minutes of all meetings of the Authority;
- 11) Copy of minutes of meeting(s) by appropriate authority in which appointments to the Applicant board was made if the board is an appointed body;
- 12) Copies of oaths of Office of Authority members filed with the Secretary of State;
- 13) Copies of written commitments to provide local share of total project costs; and,
- 14) An independent appraisal of site if it is to be included as part of the local share;
- 15) An economic feasibility study;
- 16) An economic impact study; and
- 17) A master building plan.

f) Each Application including documents and attachments shall be contained in three (3) ring binder cover(s).

g) All documents and attachments submitted in support of the

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Application shall be submitted with a general index and tab for easy reference.

h) If the application format and requirements outlined above are not followed, the application will not be accepted and will be returned to the Applicant.

(Source: Amended at 12 Ill. Reg. 22159, effective December 8, 1988)

## Section 500.90 Agreements

- a) Agreement between the State and the Applicant - Form. Upon certification, and the Department sale of State of Illinois Civic Center Bonds, if such bonds are required to fund the project, an Agreement must be signed by
  - 1) the Director on behalf of the State, and
  - 2) by the Applicant's officer(s) on behalf of the Applicant, whose signature shall be appropriately witnessed, dated, and accompanied by a certified copy of the resolution of the governing board of the Applicant authorizing the execution of the Agreement.

- b) Agreement between the State and the Applicant - Substantive. The Agreement shall contain certain substantive provisions including, but not limited to the following:

- 1) A recitation of legal authority pursuant to which the Agreement is made;
- 2) The identification of the Base Sum;
- 3) The conditions essential to payment of State financial support subject to appropriations, and the irrevocable payment of the Local Share;
- 4) The amount of financial support provided by the State and the local share provided by the Applicant pursuant to the Agreement;
- 5) Covenants of the Applicant to the State, which may include, but are not limited to the following including:
  - A) exercise of diligence in performing its legal duties;
  - B) compliance with all Federal, State and local laws in executing its responsibilities;



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- C) application of the State financial support for Total Project Costs only;
- D) engagement of professional and other qualified personnel for the purpose of supervising and performing the duties of the Applicant;
- E) employment of construction management whose duties shall include the supervision of construction of the Project;
- F) construction, operation, maintenance and preparation of all Project facilities prudently, including the development and adoption of procedures containing such controls, techniques, standards and guidelines for Project design and implementation, construction progress and the monitoring thereof, and operation of the Project as the Authority may determine;
- G) operate, or cause the Project facilities to be operated through Intergovernmental or Management Agreement approved by the Department, prudently and in a sound and economic manner, and maintain, preserve, and keep the same or cause the same to be maintained, preserved and kept, with the appurtenances and every part and parcel thereof, in good repair, working condition, and from time to time make or cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the Project may be properly and advantageously conducted;
- H) commitment to secure funds for the payment of operating deficits, if any, from sources authorized by Resolution, Ordinance, Intergovernmental Agreement or from private sources;
- I) maintenance of sufficient insurance with insurers, authorized to do business in the State, to cover for the loss of or damage to the entire Project and against public and other liabilities and such other insurance with responsible insurers as is appropriate with such variations as shall reasonably be required to conform to customary insurance practices and necessary to protect the interest of the Applicant and the State. During construction of the project, shall maintain such builder's risk insurance as is customarily carried by owners of buildings with

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- respect to such facilities while under construction, but shall not be required to maintain such insurance to the extent that such insurance is carried for the Authority's benefit by others. Shall also maintain during construction coverage as is normally carried by corporations to meet liability under "AN ACT providing for the protection and safety of persons in and about the construction, repairing, alteration, or removal of buildings, bridges, viaducts, and other structures, and to provide for the enforcement thereof" (Ill. Rev. Stat. 1987, ch. 48, pars. 60 et seq.);
- J) abiding by its duties and enforcement of its rights under an intergovernmental cooperation agreement, if the Applicant has entered into an intergovernmental cooperation agreement with another unit of local government, with regard to the Project;
- K) agrees that upon completion of the design development phase, the Authority will furnish the Department with a copy of the proposed plans, as submitted by the architect, not less than ten (10) business days prior to approval by the Authority;
- L) provide a reconciliation of the monies and revenues available to the Authority, along with a comprehensive Project Construction Budget and the Annual Authority Budget, in such detail, and with such account classifications as determined by generally accepted accounting principles upon the determination of the final costs estimate, and prior to advertising for any bids for a major component facility (as determined by the architect) of the Project, for the Department's approval;
- M) prior to commencement of construction of each of the major component facilities of the Project, provide a summary of bid awards along with a trade payment breakdown consistent with such bid awards;
- N) Building the Project in conformity with the Master Building Plan on file with the Department, and obtaining the consent of the Department prior to authorizing any amendment to the Master Building Plan;
- O) proceed to implement and complete the Project within

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the timetable set forth in the Project application, and expend or obligate all project funds no later than two years from the date of the agreement as required under the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1987, ch. 127, pars. 2301 et seq., as amended by P.A. 85 - 1214, effective August 30, 1988).

P) agrees to promptly notify the Department upon the occurrence of any events or circumstances (e.g., work stoppages, weather, delays in receiving materials) which may create substantial delays in complying with the timetable set forth in the application, and in such cases shall take due account of recommendations made by the Department to remedy such delays;

Q) providing the Department with copies of all agreements and contracts which the Authority may enter into for the construction, maintenance and operation of the Project and notify the Department of any defaults under any construction contracts let by the Authority;

R) agrees to pay, cause to be discharged or make provision to satisfy and discharge within sixty (60) days after the same shall accrue all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Project or any part thereof; provided, however, that nothing contained in the Agreement shall require the Authority to pay or cause to be discharged, or make provision for and such lien or charge, so long as the validity thereof shall be contested in good faith and by legal proceedings;

S) requiring, to the extent feasible, that each supplier, developer, prime contractor and subcontractor, which is engaged in the construction or operation of the Project, shall provide opportunities to:

i) minority individuals, women, and lower income persons for training and employment arising in connection with the planning and furnishing of its services and materials; and

ii) business concerns which are owned in substantial part by minority persons and/or

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women, including where applicable those individuals or firms located in and owned in substantial part by persons residing and doing business in the area of the Project development;

T) providing the Department with copies of all change orders and periodic construction reports from the construction manager for the Project;

U) providing the Department with Closing Docket(s) for all bonds, if any, issued by a unit of local government for the project;

V) providing the Department with copies of the minutes of each meeting of the Authority;

W) providing the Department quarterly account reports during construction and with an audited copy of the Final Construction Cost Report and Final Acceptance Certificate;

X) assurance of sufficient property interest in land or air rights on which construction or reconstruction of the Project will occur;

Y) provision that, if Total Project Costs on completion of the Project are less than the estimated Total Project Cost as indicated in the Application, that Portion of State financial support which is in excess of 75% of Revised Total Project Costs shall be returned to the State;

Z) returning all State funds advanced to the Authority, including interest earned thereon, should construction not begin within one year of the agreement;

AA) covenants that no portion of the State financial support provided hereunder will be used, directly or indirectly, in any trade or business carried on by any person other than a governmental unit;

BB) submit to the Department, the annual operating budget and annual audit of the Authority as required by the Act;

CC) agree to pay all taxes and assessments or other



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municipal or government charges, if any, lawfully levied or assessed upon or in respect of the Project or upon any part thereof when the same shall become due and shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to any part of the project; and

DD) covenants that the Authority shall not create or suffer to be created any lien or charge upon the Project or any part thereof or upon the revenues therefrom;

6) Covenants of the State to the Applicant that the Department agrees to include in its appropriation request an amount necessary to make payments of State financial support to the Applicant;

7) The Interest Income from the investment of State financial support is the property of the State pursuant to the Illinois Grant Funds Recovery Act (Ill.-Rev.-Stat.-1987-ch 127, pars.-2301-et-seq-). Final payment to the Authority when added to interest earned on previous payment(s) plus the payment(s) shall equal the base sum-;

8) The State shall have the remedy of enforcing the terms of this Agreement including obtaining a specific performance if it is breached by the Applicant;

9) None of the rights, duties or obligations of the Applicant can be assigned or transferred without the express written consent of the State;

10) The Agreement when executed by the State and the Applicant shall be complete on its face and any modification of the terms or conditions of the Agreement shall be allowed only by the written and signed consent of both parties.

c) Agreement between the State and the Applicant - Audit Report and Operating Plan. The Authority agrees to file with the Department an annual audit report and operating plan on the Authority's operation in accordance with Section 6 of the Act.

(Source: Amended at 12 Ill. Reg. 22159, effective December 8, 1988.)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED REPEALER

1) The Heading of the Part: Uniform Commodity Classifications

2) Code Citation: 92 Ill. Adm. Code 1460

Section Numbers:	Adopted Action:	Section Numbers:	Adopted Action:
1460.5	Repeal	1460.195	Repeal
1460.10	Repeal	1460.200	Repeal
1460.15	Repeal	1460.205	Repeal
1460.20	Repeal	1460.210	Repeal
1460.25	Repeal	1460.215	Repeal
1460.30	Repeal	1460.220	Repeal
1460.35	Repeal	1460.225	Repeal
1460.40	Repeal	1460.235	Repeal
1460.45	Repeal	1460.240	Repeal
1460.50	Repeal	1460.245	Repeal
1460.100	Repeal	1460.250	Repeal
1460.105	Repeal	1460.255	Repeal
1460.110	Repeal	1460.260	Repeal
1460.115	Repeal	1460.265	Repeal
1460.120	Repeal	1460.270	Repeal
1460.125	Repeal	1460.275	Repeal
1460.130	Repeal	1460.280	Repeal
1460.135	Repeal	1460.285	Repeal
1460.140	Repeal	1460.290	Repeal
1460.145	Repeal	1460.295	Repeal
1460.150	Repeal	1460.300	Repeal
1460.155	Repeal	1460.305	Repeal
1460.160	Repeal	1460.310	Repeal
1460.165	Repeal	1460.315	Repeal
1460.170	Repeal	1460.320	Repeal
1460.175	Repeal	1460.325	Repeal
1460.180	Repeal	1460.330	Repeal
1460.185	Repeal	1460.335	Repeal
1460.190	Repeal		

4) Statutory Authority: Implementing Section 18c-1202(5) and authorized by Section 18c-1202(9) of the Illinois Commercial Transportation Law (Ill. Rev. Stat. 1987, ch. 92 1/2, pars. 18c-1202(5) and 18c-1202(9)).

5) Effective Date of Rules: December 15, 1988

6) Does this rulemaking contain an automatic repeal date? No.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED REPEALER

- 7) Does this repealer contain incorporations by reference? No.
- 8) Date Filed in Agency's Principal Office: December 7, 1988
- 9) Notice of Proposal in Illinois Register:  
August 19, 1988, at 12 Ill. Reg. 13385
- 10) Has JCAR issued a Statement of Objection to this repealer?  
No.
- 11) Differences between proposal and final version: None.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No  
changes requested.
- 13) Will this repealer replace an emergency repealer currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Repealer: Part 1450 was repealed because the procedures outlined in the Part proved to be burdensome and confusing to the motor carrier industry and difficult for the Commission staff to implement.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Conrad Rubinkowski  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, Illinois 62706  
(217)785-3922

## DEPARTMENT OF CORRECTIONS

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Freedom of Information
- 2) Code Citation: 2 Ill. Adm. Code 851
- 3) Section Numbers: Adopted Action:  
851.10 Amend  
851.20 Amend  
851.30 Amend  
851.50 Amend  
851.60 Amend
- 4) Statutory Authority: Implementing and authorized by The Freedom of Information Act (Ill. Rev. Stat. 1987, ch. 116, par 201 et seq., as amended by P.A. 85-1357, effective January 1, 1989) and Section 4.01 of The Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1004.01).
- 5) Effective Date of Rule(s) (Amendments, Repealer): January 1, 1989
- 6) Does this rulemaking contain an automatic repeal date? Yes X No
- 7) Does this rule (amendment, repealer) contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 1, 1988
- 9) Notice(s) of Proposal Published in Illinois Register: This rulemaking is exempt from the Notice of Proposal in accordance with Section 4.01 of the Illinois Administrative Procedure Act.
- 10) Has JCAR issued a Statement of Objections to this(these) rule(s)? No.
- 11) Difference(s) between proposal and final version: None.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Not applicable; exempt from proposed rulemaking.
- 13) Will this rule (amendment, repealer) replace an emergency rule (amendments, repealer) currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Rule(s) (Amendments, Repealer): These rules provide procedures for obtaining information in accordance with The Freedom of Information Act, as amended effective January 1, 1989. The rules have been updated for clarity and to provide for a waiver or



## DEPARTMENT OF CORRECTIONS

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reduction of fees as determined by the Freedom of Information Officer under certain circumstances.

- 16) Information and questions regarding this adopted rule (amendment, repealer) shall be directed to:

Name: William H. Craine, Ph.D., Deputy Director  
 Department of Corrections  
 Address: 1301 Concordia Court  
 P. O. Box 19277  
 Springfield, Illinois 62794-9277  
 Telephone: 217/522-2666

The full text of the Adopted Rule(s) (Amendments) begins on the next page:

TITLE 2: GOVERNMENTAL ORGANIZATION  
 SUBTITLE D: CODE DEPARTMENTS  
 CHAPTER VII: DEPARTMENT OF CORRECTIONS

PART 851  
 FREEDOM OF INFORMATION

Section	
851.10	Applicability
851.20	Definitions
851.30	Requests for Records
851.40	Responses to Requests
851.50	Appeal Procedure
851.60	Fees

Appendix A Fee Schedule

**AUTHORITY:** Implementing and authorized by The Freedom of Information Act (Ill. Rev. Stat. 1987, ch. 116, par. 201 et seq., as amended by P.A. 85-1357, effective January 1, 1989) and Section 4.01 of The Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1004.01).

**SOURCE:** Adopted at 8 Ill. Reg. 12208, effective July 1, 1984; amended at 12 Ill. Reg. 22174, effective January 1, 1989.

Section 851.10 Applicability

This Part applies to any interested persons seeking access to public records in the possession of the Department of Corrections.

(Source: Amended at 12 Ill. Reg. 22174, effective January 1, 1989)

Section 851.20 Definitions

"Department" means the Department of Corrections.

"FOIA" means the Freedom of Information Act.

"Freedom of Information Officer" means the individual designated by the Director to whom requests for records are to be sent.

"Public records" includes all documents, records and other information prepared, used or maintained by the Department.

"Requestor" means an individual, organization or other entity who requests to inspect or copy public records.

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"Working days" means business days excluding Saturdays, Sundays and legal holidays on which State offices are closed.

(Source: Amended at 12 Ill. Reg. 22174, effective January 1, 1989)

### Section 851.30 Requests for Records

- a) All requests for public records shall be submitted to:

Freedom of Information Officer  
Illinois Department of Corrections  
1301 Concordia Court  
P. O. Box 19277  
Springfield, Illinois 62702 62794-9277

Attention: FOIA Request

- b) All requests shall be in writing and submitted on FOIA request forms which shall be available at all Department offices and correctional facilities. Requests should be printed or typed and must include the following information:

- 1) The requestor's full name, address, and daytime telephone number;
  - 2) A brief description of the records sought, being as specific as possible;
  - 3) Whether the request is for the inspection and/or copying of records; and
  - 4) Whether the records need to be certified.
- c) Requests shall be deemed to have been received on the date of receipt by the Freedom of Information Officer.
- d) The Department is not obligated to create or develop a record which was not already compiled at the time a request is received.

(Source: Amended at 12 Ill. Reg. 22174, effective January 1, 1989)

### Section 851.50 Appeal Procedure

- a) When a request for public records has been fully or partially denied, the requestor may appeal the denial to the Director. Notice of the appeal shall be made in writing to:

## DEPARTMENT OF CORRECTIONS

## NOTICE OF ADOPTED AMENDMENTS

Director  
Illinois Department of Corrections  
1301 Concordia Court  
P. O. Box 19277  
Springfield, Illinois 62702 62794-9277

Attention: FOIA Appeal

- b) The notice of appeal shall include:

- 1) Copies of the original request and, if available, the Department's notice of denial; and
  - 2) A brief statement by the requestor as to the reasons the appeal should be granted.
- c) The Director or his designee shall respond within seven working days. The Director or his designee shall either affirm the denial as to all or part of the records or shall determine that the records are available for inspection and copying. If the Director or his designee does not respond to the notice of appeal within seven working days after its receipt, the requestor may consider his appeal to have been denied.
- d) If the appeal to the Director is denied, the requestor may file for judicial review of the Department's decision.

(Source: Amended at 12 Ill. Reg. 22174, effective January 1, 1989)

### Section 851.60 Fees

- a) Copies of public records shall be provided to the requestor only upon receipt of a check or money order in payment of any and all fees. Fees for copies and certification of public records shall be assessed in accordance with the standard Fee Schedule established by the Department. (Refer to Appendix A.)
- b) Fees may be waived when the Freedom of Information Officer determines that the waiver best serves the public interest. Fees shall be waived or reduced, as determined by the Freedom of Information Officer, if the requestor states the specific purpose for the request and indicates that the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. In setting the amount of any such waiver or reduction, the Freedom of Information Officer may consider the amount of materials requested and the cost of copying.



ILLINOIS REGISTER

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 12 Ill. Reg. 22174, effective January 1, 1989)

ILLINOIS REGISTER

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) The Heading of the Part: Higher Education Cooperation Act

2) The Act: 13 Ill. Adm. Code 1010

3) Section Number: 1010.30 Adopted Action: Amendments

4) Statutory Authority: 11. Par. Stat. 1987, ch. 144, pars. 281 et seq.

5) Effective Date of Amendment: December 12, 1988

6) Does this rulemaking contain an automatic repeal date? No.

7) Does this amendment contain incorporations by reference? No.

8) Date Filed in Agency's Principal Office: December 7, 1988

9) Notice of Proposal Published in Illinois Register:  
August 5, 1988, 11 Ill. Reg. 10622

10) Has JCAR issued a Statement of Objections to these rules? No.

11) Differences between proposal and final version:

In Section 1010.30(c), the title "Unexpended Grant Funds." was inserted before the language beginning, "Any unexpended portion..."

In Section 1010.30(d), the title "Fund Transfers." was inserted before the language beginning, "The transfer of any funds..."

In the authority note, quotation marks were deleted from the title of the Act and the period following "et" was deleted.

In Section 1010.30(b) commas were added following the year in the two dates shown in line two. Also, commas were added, at the request of the JCAR staff, in the final two clauses of that same section.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will this amendment replace an emergency amendment currently in effect? No.

14) Are there any amendments pending on this Part? No.

## BOARD OF HIGHER EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: The amendments will allow institutions to propose project fiscal years (grant periods) which do not coincide with the state's fiscal year. An increasing number of worthwhile proposals call for projects to begin at the beginning of the academic year, about September 1st, and to continue for one year. Current grant rules require that the grant period coincide with the state's fiscal year. The Board believes that the additional flexibility given to institutions under the amendment will be desirable.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Carolyn Lorton, Assistant Director  
Address: Illinois Board of Higher Education  
500 Reisch Building  
4 West Old Capitol Square  
Springfield, Illinois 62701  
Telephone: 217/782-2551

Name: William E. Feurer, Attorney-at-Law  
Address: 919 South Eighth Street  
Springfield, Illinois 62703  
Telephone: 217/525-6690

The full text of the Adopted Amendments begins on the next page.

## BOARD OF HIGHER EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1010

HIGHER EDUCATION COOPERATION ACT

Section  
1010.10 Eligible Applicants  
1010.20 Selection of Projects for Grants  
1010.30 Conditions and Administrative Responsibilities  
1010.40 Grant Application Procedures

AUTHORITY: Implementing and authorized by the Higher Education Cooperation Act (Ill. Rev. Stat. 1987, ch. 144, pars. 281 et seq.).

SOURCE: Adopted April 15, 1976; rules repealed and new rules adopted at 6 Ill. Reg. 5527, effective April 14, 1982; codified at 8 Ill. Reg. 1452; amended at 9 Ill. Reg. 8146, effective May 16, 1985; amended at 12 Ill. Reg. 22180, effective December 12, 1988.

Section 1010.30 Conditions and Administrative Responsibilities

- a) Non-Discrimination. No recipient shall discriminate on the basis of race, creed, sex, handicap, color, or national origin in the employment, training, or promotion of personnel or in the implementation of the program funded by the grant.
- b) Grant Period. Grants for Fiscal Year 1989 shall be for the period from July 1, 1988, through August 31, 1989, July-1-through-June-30 and grants for subsequent fiscal years shall be for a 12-month period, which 12-month period shall be determined by the applicant/recipient, but which 12-month period must fall between July 1 of the fiscal year and August 31 of the following fiscal year.
- c) Unexpended Grant Funds. Any unexpended portion of the grant funds shall be refunded to the Board.
- d) Fund Transfers. The transfer of any funds from one line item to another set forth in the budget must be approved in advance by the staff of the Board if that transfer will be in excess of twenty percent (20%) of the particular line item from which the funds are to be transferred. Failure to obtain such approval means the grant recipient must refund to the Board all of the grant funds transferred in excess of the twenty percent ceiling.



## BOARD OF HIGHER EDUCATION

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e) Record Keeping. All costs charged to the program shall be supported by properly executed payrolls, time records, invoices, contracts, and vouchers evidencing in proper detail the nature and propriety of the charges. Such records shall be kept separately from other documents and maintained for a period of three years after receipt of final payment.

f) Evaluation and Audit Reports. Within ninety days of the project's ~~termination or~~ the end of the grant period ~~fiscal year~~, the recipient shall submit to the Board an evaluation of the project and an audit report of expenditures prepared by an external auditor. The evaluation of the project shall include systematic and objective procedures for appraising the project with respect to how closely the purposes were fulfilled and an explanation of any deviation therefrom. Any recipient which fails to submit an audit shall refund the entire grant amount to the Board. Complete payment of grant funds for any continuing project shall be contingent upon submission of the evaluation and audit reports for the previous grant period ~~years grants~~.

g) Contracts. All grants awarded under this program shall be made through contractual agreements between the Board and the not-for-profit corporation or institution designated as the fiscal agent for the program. Such contracts shall be effective for the grant period ~~fiscal year-july-1-through-june-30-and-shall-be-in-~~ accordance with State rules and regulations of contracts.

(Source: Amended at 12 Ill. Reg. 22180, effective December 12, 1988)

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of Part: Construction and Filing of Life Insurance and Annuity Forms

2) Code Citation: 50 Ill. Adm. Code 1405

3) <u>Section Numbers:</u>	<u>Adopted Action:</u>
1405.10	Amendment
1405.20	Amendment
1405.30	Amendment
1405.40	Amendment
1405.50	Amendment
1405.70	Amendment
1405.80	Amendment
1405.90	New

4) Statutory Authority: Section 143 and 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 755 and 1013)

5) Effective Date: December 16, 1988

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date filed in Agency's Principal Office: December 9, 1988

9) Notice of Proposal Published in Illinois Register: January 4, 1988, 12 Ill. Reg. 99

10) Has JCAR issued a statement of objections to these amendments? No

11) Differences between proposal and final version:

1) Section 1405.20(a)(2) was redrafted to read "Policy forms exempt from filing are as follows:"

2) "See 50 Ill. Adm. Code 917.70" was added to the end of Section 1405.20(a)(2)(A).

3) "See 50 Ill. Adm. Code 930.40(a)" was added to the end of Section 1405.20(a)(2)(C).

4) The words "refer to" were replaced by "For rubber stamp endorsements, see" in line 3 of Section 1405.20(c)(4).

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

- 5) The word "may" was replaced by the word "shall" in line 2 of Section 140.20(d)(6).
- 6) The word "requirements" was replaced by "applicable sections" in line 1 of Section 1405.30(a)(4).
- 7) A new Subsection 1405.40(c)(3) was added to the Part and reads as follows.  

"Notification of the policyholder with respect to the initial interest rate on an automatic premium loan must be made as soon as it is reasonably practicable after making the initial loan, but in no event more than 90 days after the initial loan is made. Notification need not be given to the policyholder when a further premium loan is added unless a loan rate increase occurs; a reasonable advance notice of any increase in rate must be made, but in no event less than 15 days prior to the increase in rate. (Ill. Rev. Stat. 1987, ch. 73, par. 841.5(b)(5)(ii) and (iii))."
- 8) The phrase "unless the policyholder agrees in writing to the applicability of such provision" was added at the end of Section 1405.40(d)(2).
- 9) The sentence "For purposes of this subsection, due proof shall consist of sufficient evidence to establish in a court a prima facie case for payment of the claim." was added after the second sentence in Section 1405.40(h)(1).
- 10) The proposed language in Section 1405.40(j)(1) was deleted from the Part.
- 11) The phrase "as is prohibited by Section 225(1)(b) of the Illinois Insurance Code" was moved from the end of the second sentence to the end of the first sentence in Section 1405.40(n).
- 12) The phrase "as is provided for by Section 224(1)(k) of the Illinois Insurance Code" was deleted from Section 1405.40(o)(2) and was added after the word "value" in Section 1405.40(o)(1).
- 13) The sentence "For purposes of this subsection, result language includes but is not limited to death as a result of war, death as a result of suicide and death as a result of flying." was added to the end of Section 1405.40(p)(2).

## DEPARTMENT OF INSURANCE

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- 14) The sentence "For purposes of this subsection, accidental means test requires that both the cause and result of the accident to be an accident." was added to Section 1405.40(p)(2).
- 15) The language "or by an endorsement added to the policy. If the effective date of coverage is different than the rider date, or rider date issue, then such information shall be disclosed on the form." was deleted from the end of Section 1405.40(x)(2).
- 16) Section 1405.70(c) was reworded to read "The applicable jurisdiction for Group Variable Annuity contracts is the jurisdiction where the group master policy is delivered."
- 17) In Section 1405.70(d) "226,229.4 and" was deleted from line 8 and "838,841.4 and" was deleted from line 9.
- 18) The phrase "including but not limited to withdrawal and surrender charges" was added after the word "charges" in line 1 of Section 1405.70(e)(2).
- 19) In Section 1405.20(c)(5) the words "special, select, preferred and inflation" were placed in quotation marks.
- 20) The following non-substantive changes were made in the Part:
  - a) To delete the quotation mark following schedule of benefits in line 4 of Section 1405.40(x)(2);
  - b) To delete the underscoring in lines 6, 7, and 8 beginning at "by establishing" in Section 1405.10;
  - c) To add a comma after "73" in line 8, after "negotiated" in line 10 and after "73" in line 13 of Section 1405.30(a)(1);
  - d) To italicize lines 2 through 9 to show statutory language and add a comma after disability in line 3 of Section 1405.40(e)(1);
  - e) To delete the underscoring of the first "of" in line 1 of Section 1405.40(f);
  - f) To underscore the period after "claim" in Section 1405.40(g);
  - g) To strike over the "N" plus add and underscore an "n" to the word "no" in line 1 of Section 1405.40(h)(1);



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- h) To change the "p" to "p" in the word "policy" in line 1 of Section 1405.40(j)(1);
- i) To change "dispositions" to "disposition" in line 2 of Section 1405.40(j)(2);
- j) To change "policyholder" to "policyholder" in line 8 of Section 1405.50(j)(3);
- k) To underscore "The nonforfeiture value" in line 1 and the Second "the" in line 2 of Section 1405.40(k);
- l) To capitalize "parent" in line 4 of Section 1405.40(l);
- m) To add a quotation mark in front of the word "visible" in line 3 of Section 1405.40(p)(2);
- n) To delete "all" in line 10 of Section 1405.40(r);
- o) To add a comma after "or" in line 5 of Section 1405.40(t);
- p) To delete the word "all" in line 8 of Section 1405.40(v)(1);
- q) To add quotation marks around "preferred," "special," "select" and "inflation" in line 4 of Section 1405.40(x)(1);
- r) To add a comma after "73" in the last line of Section 1405.70(d);
- s) To remove the "d" from "Filed" in Section 1405.70(g).

12) Have all the changes agreed upon by the agency and JCAR been made as Indicated in the agreement letter issued by JCAR? yes

13) Will these amendments replace an emergency amendment currently in effect?  
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose Amendments: The purpose of these amendments is to update Part 1405 in light of recent statutory amendments to the Illinois Insurance Code. The statutory amendments and the amendments to the Rule attempt to update the Insurance Code and the Regulation in light of the new varieties of life and annuity insurance products available to the residents of Illinois.

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16) Information and questions regarding these adopted amendments should be directed to:

Charles Budinger  
Illinois Department of Insurance  
320 West Washington  
Springfield, Illinois 62767  
(217) 782-4515

The full text of the Adopted Amendments begins on the next page:

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TITLE 50: INSURANCE  
CHAPTER 1: DEPARTMENT OF INSURANCE  
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCE

certificatorider, by-law or other matter incorporated by reference or application blank. It does not include riders or endorsements issued or made at the request of the individual policyholder relating to the manner of distribution of benefits or to the reservation of rights and benefits under his a life insurance policy. (Section-143-of-the-illinois-insurance-code)-

PART 1405

CONSTRUCTION AND FILING OF LIFE INSURANCE AND ANNUITY FORMS

- Section  
1405.10 Authority  
1405.20 Illinois Guidelines For Filing and Approval of Life and Annuity Forms  
1405.30 Applications  
1405.40 Policy Forms  
1405.50 Group Insurance  
1405.60 Franchise Life Insurance  
1405.70 Annuities  
1405.80 Alternate and/or Insert Pages  
1405.90 Substitution Filings
- 2) Policy forms exempt from filing are as follows:  
A) Notice Regarding Replacement (see 50 Ill. Adm. Code 917.70).  
B) Policy Summaries.  
C) Buyer's Guides (see 50 Ill. Adm. Code 930.40(a)).  
3) Policy forms prohibited pursuant to Sections 143(1) and 224(1)(c) of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 755(1) and 836(1)(c)).  
A) Certificates issued in lieu of a duplicate insurance policy.  
B) Forms containing provisions excluding scuba diving, hang-gliding, motorcycle racing, race car or stock car racing, or hazardous sports.

AUTHORITY: Implementing Section 143 and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 755 and 1013).

SOURCE: Filed July 11, 1972, effective August 1, 1972; codified at 7 Ill. Reg. 3466; amended at 12 Ill. Reg. 22184, effective December 16, 1988.

Section 1405.10 Authority

This Rule Part is issued by the Director of Insurance (Director) pursuant to Section 401 of the Illinois Insurance Code, which empowers the Director "...to make reasonable rules and regulations as may be necessary for making effective..." the insurance laws of this State. This Rule Part implements Section 143 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 755) by establishing a "Policy Form Manual" designed to make uniform the requirements and practices in the filing of certain policy forms with the Director.

(Source: Amended at 12 Ill. Reg. 22184, effective December 16, 1988.)

Section 1405.20 Illinois Guidelines For Filing and Approval of Life and Annuity Forms

Following are some general rules-and requirements which should be helpful to industry personnel involved in drafting and filing policy forms. Within-the-illinois-insurance-code-sections-are-captioned-as--(836--Section--224--)-The-first-reference--(836)--is--the--illinois-Revised-Statute--Chapter-73--Section-number-while-the-second--(224)--is--the--illinois-Insurance-Code-Section--

- a) Policy Forms  
1) "Policy Form" Defined. The term "policy form" as used in these rules is defined in the Insurance Code. It means any policy,
- 1) Each "policy form" must be designated by a suitable form number which may be made up of numerical digits or letters, or both, in the lower left-hand corner of the first page. The form number should shall be sufficient to distinguish the basic form from all others used by the insurer. Edition date and/or designation of a state where a special edition is required is permitted in such space, and if printed as a continuation of the form number, will be considered a part thereof. The appearance of a company's stock number and/or printing date in proximity to the form number is permitted.  
A) Where a descriptive title is in close proximity to the form number, it will not be considered a part of that number for approval purposes unless inclusion is requested by the company.  
B) Refer to Section 1405.80 of this Part for instructions relating to form numbers when filing a policy on an insert page basis.  
2) Since the form number must be sufficient to identify any form which has been issued by a company, each submission must bear a unique number. A recently approved but unissued form may be corrected or changed by filing a substitute page or form which may retain the original form number.  
c) General Form Requirements (Section-149-of-the-illinois-Insurance-Code) pursuant to Section 149 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 761).  
1) The name of the company should shall appear on the form.  
2) Policy should shall show location of the Home Office and Principal Office, if different.  
3) Policy should shall indicate the Issue or Policy Date and the Effective Date, if different.



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- 4) Rubber stamp deletions, mechanical overprints or paste-over "stickers" are permitted with the prior approval of the Department (For rubber stamp endorsements, see Section 1405.20(d)(8) of this Part).
- 5) The name or title of any policy or class of policies may not misrepresent the nature thereof. The title shall be specifically descriptive such as: Term, Annuity, Endowment or Whole Life. Inclusion of words such as "special", "select", "preferred" or "inflation" are not allowed in the title as they imply receiving something not normally offered in a life policy in violation of Sections 143(1) and 149 of the Illinois Insurance Code.
- d) Preparation of Forms
  - 1) "Policy Forms" must be submitted in duplicate.
  - 2) "Policy Forms" submitted for formal approval should be submitted in the form intended for actual issue. Typewritten forms may be used only for single cases or when their use will be too infrequent to justify other preparation.
  - 3) All blank spaces of each policy form must be filled in (completed in John Doe manner). The purpose and use of the form should be explained in the submission letter.
  - 4) When submitting a "policy form" to which a copy of the application will be attached when issued, a copy of the application should be attached to the policy form, or if previously approved, reference must be made to approval date and form number.
  - 5) On applicable life policy forms, nonforfeiture values, if any, for the age and plan of insurance used in filling in the form, must be included.
  - 6) On group forms, variable material may be indicated for language which may vary from case to case. Variable material shall consist of benefit provisions and benefit levels.
  - 7) Procedures for filing and approval without review of life policies as well as the completion of Certifications of Compliance and-Weaver are set forth in 50 Ill. Adm. Code 916.
  - 8) All rubber stamp endorsements should be submitted for approval, in duplicate, under the insurer's letterhead and filed in accordance with 50 Ill. Adm. Code 916.
  - 9) Combination forms (for Life and A-G-H Accident and Health) should be submitted in duplicate to both the Life Unit and the A-G H Accident and Health Unit of the Policy-Examination-Division (Separate-records-are-maintained)- Product Evaluation Section.
  - 10) Use of a "pilot" form is recommended before submission of an entirely new series of policy forms.
- e) Letters of Submission
 

The letter of submission must be in duplicate, signed by a representative of the company authorized to submit forms for filing or approval and must contain the following information:

  - 1) The letterhead of the company should show the name of the company for whom the forms are being submitted.

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- 2) The identifying form number of each form submitted.
- 3) If the form is a new one, not replacing an existing form, a statement to that effect.
- 4) If the form is intended to supersede another approved form, the form number and the approval date of the superseded form must be stated together with a statement as to any material changes.
- 5) If a company submits a form which has been previously submitted, but has not been approved, the company should advise the Department of the date of submission or disapproval of the previously submitted form and any material changes.
- 6) If the form is other than a policy or contract, give the form number of the policy or contract form or forms with which it will be used, or, if for more general use, describe the type or group of such forms.
- 7) When a form is approved, one copy of the submission letters will be stamped "approved" and returned to the company. To expedite individual approval, the Department of Insurance (Department) encourages companies to submit separate submission letters with each form submitted.
- 8) Reference to previously approved forms should provide date of approval of such forms.

(Source: Amended at 12 Ill. Reg. 22184, effective December 16, 1988.)

## Section 1405.30 Applications

## a) General

- 1) The application for a policy must-contain-a-space-for-the-agent's signature-unless-the-policy-or-contract-to-be-issued-under-the application-requires-a-counter-signature-by-a-duty-licensed resident-agent-of-the-insurer-(Section-610-of-the-Illinois Insurance-Code); shall contain spaces for the name and signature of the producer or other licensee who solicited and wrote the application as required by Section 493.2 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 1065.40-2) and the policy or contract shall contain spaces for a resident producer's countersignature if the policy has been negotiated, solicited or effected by a non-resident producer as required by Section 497.2 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 1065.55-2).
- 2) The size of the type in the declaration portion of an application must meet a reasonable standard of legibility.
- 3) In applications providing for home office endorsement, there shall be no change in the amount of insurance or benefits, unless agreed to in writing by the applicant.
- 4) Applications shall fully comply with the applicable sections of Article X of the Illinois Insurance Code, Insurance Information and Privacy Protection (Ill. Rev. Stat. 1987, ch. 73, pars.

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1065.701 et seq.).

## b) Health Questions

- 1) Questions requiring applicant's opinion regarding past or present health of a person proposed for coverage ~~should~~ shall be asked as to the best of the applicant's knowledge and belief.
- 2) Questions regarding an applicant's past or present health which are phrased so as to require factual information rather than a statement of the applicant's opinion need not be so qualified as in subsection (b)(1) above.
- 3) Medical Authorization in an application may be handled in one of the following ways:
  - A) By a direct question to be answered "yes" or "no" which clearly indicates that the applicant has or has not waived the privilege<sup>2</sup> or
  - B) By a statement in the declaration immediately above or in close conjunction to the signature line<sup>2</sup>; or
  - C) By a separate authorization requiring a separate signature of the applicant or other person granting the authorization.
- c) Automatic Premium Loan Provision  
The application may provide for a specific election of an automatic premium loan provision if such provision is offered in the policy. Failure to elect on the part of the applicant shall result in no election of the automatic premium loan provision ~~(See-Section-1405-40~~ ~~et))~~ as provided for in Section 1405.40(c) of this Part.
- d) Dividend Election  
If the contract applied for is participating, the application may provide for election of an available dividend option ~~(See-Section 1405-40-(j))~~ as provided for in Section 1405.40(j) of this Part.

- e) Premium Mode  
"Salary Savings", "Salary Deduction", "Payroll Deduction" and similar designations may be used.
- f) Replacement

~~A question must be included inquiring whether the policy is applied for with--replace--existing--insurance--unless a separate form is used for this purpose--(50-iii--Adm--Code-9477). Applications shall be drafted to comply with the replacement provisions of 50 Ill. Adm. Code 917.~~

(Source: Amended at 12 Ill. Reg. 22184, effective December 16, 1988)

## Section 1405.40 Policy Forms

## a) Payment of Premiums

- 1) Receipt - Section 224(1)(a) of the Illinois Insurance Code requires that a policy of life insurance shall contain in substance the following: "A provision that all premiums after the first shall be payable in advance either at the home office of the company or to an agent of the company, upon delivery of a receipt signed by one or more of the officers who shall be

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designated in the policy, when such receipt is requested by the policyholder."

- 2) Premium Deposits - Contractual premiums under individual policy forms may be captioned as "Premium deposits" (50 Ill. Adm. Code 909).
- 3) Prepayment of Premiums - Specific premiums may be paid in advance, subject to discount.
- 4) Advance Premium Deposits - A fund or account for payment of unspecified premiums (whether by policy or by rider) must conform to the requirements of Section 240 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 852).

- 5) Grace Period - Policy must provide for continuance in force during the grace period and deduction (not necessarily payment) of any unpaid premium in settlement under the policy ~~(See~~ pursuant to Section 224(1)(b) of the Illinois Insurance Code.

- b) Continuation of Premiums Beyond Maturity  
If a policy provides for continuation of premiums, on an optional basis, beyond an initial or normal maturity date, it must be made clear that coverage and all applicable policy provisions also continue while premiums are being paid. The policyholder must be made aware of applicable policy values while premiums are so continued: either by including such values in the policy, or by specifying that notices of the current value will be sent to the policyholder upon request.

## c) Automatic Premium Loan Provision

- 1) Policy may provide benefit on an ~~election~~ a positive elective basis but not as an automatic nonforfeiture benefit. ~~(See Section-1405-30-(et))~~ For provisions regarding automatic premium loans in applications see Section 1405.30(c).

- 2) Provision must conform to the loan provision of the policy, subject to Sections 224 (1)(f), and Section 229.3 and 229.5 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 836(1)(f), 841.3 and 841.5). ~~It~~ The provision must permit revocation of election upon written request.

- 3) Notification of the policyholder with respect to the initial interest rate on an automatic premium loan must be made as soon as it is reasonably practicable after making the initial loan, but in no event more than 90 days after the initial loan is made. Notification need not be given to the policyholder when a further premium loan is added unless a loan rate increase occurs: a reasonable advance notice of any increase in rate must be made, but in no event less than 15 days prior to the increase in rate. (Ill. Rev. Stat. 1987, ch. 73, par. 841.5(b)(5)(ii) and (iii)).

## d) Loan Interest Rate

- 1) Provision must conform to Sections 224(1)(f), and ~~Section 229.3~~ and 229.5 of the Illinois Insurance Code. Any variable rate must include a specified maximum rate of interest. The Department requires filing of a description of procedure for changing a variable rate and notifying those policyowners who have outstanding loans of such change which must be made on a



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non-discriminatory basis.

- 2) The interest rate charged on a policy loan or the interest rate charged upon reinstatement of any policy form which was made under a policy issued after January 1, 1982, will not exceed the rate prescribed in Section 229.5 of the Illinois Insurance Code either as a maximum rate of not more than 8% or an adjustable maximum interest rate established from time to time by the life insurer as permitted by law unless the policyholder agrees in writing to the applicability of such provisions.

e) Contestability

- 1) Limited to a maximum of two years. Permissible exceptions are "provisions relative to benefits in the event of total and permanent disability, and provisions which grant additional insurance specifically against death by accident and except for violations of the conditions of the policy relating to naval or military service in time of war or for violation of an express condition, if any, relating to aviation (except riding as a fare-paying passenger of a commercial air line flying on regularly scheduled routes between definitely established airports)" (Section 224(f)(1)(c) of the Illinois Insurance Code, as provided by Section 224(l)(c) of the Illinois Insurance Code.
- 2) The period of contestability shall be determinable from the policy, i.e., by reference to a specified issue date, policy date or effective date (See Section 1405.40(v)(4)) as referred to in subsection (v) of this Part.

f) Limitation of Coverage

Any limitation of coverage in event of death by suicide or other specified causes must be confined within the contestability period of the policy to comply with Section 225(l)(c) and Section 225(l)(f) of the Illinois Insurance Code. Exceptions to this restricted limitation are given in Section 224(l)(c) of the Illinois Insurance Code and Section 1405.40(v)(2) of this Part.

g) Proof of Death

Section 224(l)(j) of the Illinois Insurance Code requires due proof of death. The Department requires that "proof" be singular (not proofs) and not further qualified, i.e., to require submission of "interest of the claimant". Insurers shall not require that a specific form be used when submitting a claim.

h) Time Limit on Claims

- 1) Filing of Death Claims - There is no time limit for filing death claims if the claim is not conditioned upon other contingencies, i.e., prior disability or accident. Since Illinois law does not authorize a time limitation on filing proof of death (Section 224(f)(1)(j) of the Illinois Insurance Code) Section 224(l)(j) of the Illinois Insurance Code requires when there is a claim on a policy due to the death of the insured then settlement shall be made upon receipt of due proof of death. For purposes of this subsection, due proof shall consist of sufficient evidence to establish in a court a prima facie case for payment of the claim.

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Therefore, any limitation with respect to death claims arising during and contingent upon the insured's continued disability must be limited to a requirement that proof of disability be furnished within a stipulated period as a condition precedent to consideration of a death claim.

- 2) ~~Accidental Death and Dismemberment Claims - While the Illinois Insurance Code does not specifically state a basis for placing a reasonable time limit on the filing of such claims, it is a generally accepted principle of insurance law to allow a policy provision setting such a limit. The Department interprets ninety (90) days as being a reasonable time, recognizing that the factual situations of any specific claim may reasonably require a longer time limit. This is consistent with the proof of loss limitation of Code Section 357.0 (applicable to A & H policies) and the Department will accept policy language limiting claim filing time if the language is consistent with the intent of Section 357.0 of the Illinois Insurance Code.~~

- 3) 2) Filing of Disability Claims - Reasonable limits are permitted. The form may require notification of disability during lifetime and continuance of disability and may eliminate accrual of benefits because of any disability which was in existence more than one year prior to furnishing proof of disability.

- i) Participating - Non-Participating  
A policy must indicate whether the policy is participating or non-participating.

j) Dividend Provisions

The following is applicable to individual policy forms:

- 1) Required Options - The policy must provide the dividend options required under Section 224(l)(e) of the Illinois Insurance Code. ~~(Paid-up additions are not required under term policies) (See Section 1405.30(d) of this Part or Section 224(f)(1)(e) of the Illinois Insurance Code).~~
- 2) Disposition of Dividends Left With the Company - The policy must indicate what disposition will be made of outstanding dividend credits in event of lapse, termination or maturity of the policy.
- 3) Other Dividend Options - In addition to the dividend options required under Section 224(l)(e) of the Illinois Insurance Code, other options (such as a one-year term insurance dividend option) may also be provided by the policy. Provisions pertaining to the automatic withdrawal of any accumulated dividends or current and unapplied dividends for the purpose of paying premiums unpaid at the end of a grace period may be included if the policy provides for the notification of the policyholder of the application of dividends and the policyholder is given a minimum of 30 days after the date of the notice within which to direct the insurer to reverse the dividend transaction.
- 4) One-Year Term Insurance Dividend Option - Provision must be made for the disposition of the value of any one-year term insurance addition in the event of lapse of the policy. The policy may

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either provide for application of any cash value of the remaining one-year term insurance under nonforfeiture options, or a continuation of such term insurance.

- 5) Prohibited Provisions - Prohibited provisions regarding individual life policy dividends are cited in 50 Ill. Adm. Code 914.

k) Nonforfeiture Values

The nonforfeiture value table must illustrate loan values and options available for each of the first 20 years of the policy or its term, if less, and include a provision that upon request, the company will furnish an extension of the table. Values and statements in the policy must fulfill the requirements of Section 229.2 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 229.2).

- l) Standard Nonforfeiture Law - Paid-up Insurance Upon Death of Insured (Family Policy).

A spouse or children entitled to Paid-up Insurance upon the death of a covered person under a Family or Parent-Child policy, shall be given the right to obtain the net cash surrender value of such Paid-up Insurance, and the form shall so state. In lieu of a Table of such values, a statement may be included that the applicable notice of the current values will be furnished by the company on request ~~(see Section 229.2(f)(7) of the Illinois Insurance Code)~~ as provided for in Section 229.1(6) of the Illinois Insurance Code.

- m) Inapplicable Language
- Inapplicable language shall be avoided is prohibited if the inclusion of such language results in inconsistencies, ambiguities or is misleading ~~(see Section 143 of the Illinois Insurance Code)~~ as is required by Section 143 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 755).

n) Back Dating of Life Policy

While the Code prohibits a provision under which any policy purports to be issued or take effect more than six months before the original application was made, this limitation is not applicable in conversion from or exchanges of one form of policy or annuity to or for another form provided credit is given for the reserve accumulation of the converted or terminated policy, and the form clearly spells out acceptable provisions relating to indebtedness, tabular cash values, dividends, effective date, and dividend accumulations, if any, under the new policy as is prohibited by Section 225(1)(b) of the Illinois Insurance Code. The conversion or exchange may not result in the policyholder being charged for insurance protection that was not received ~~(see Section 224(f)(b) of the Illinois Insurance Code)~~.

o) Settlement at Maturity - Commuted Value of Unpaid Installments

The Form shall:

- 1) provide the basis for determining any commuted value as is provided for by Section 224(1)(k) of the Illinois Insurance Code; and
- 2) indicate whether benefits at death shall be payable to an estate or to a named beneficiary ~~(see Section 224(f)(k) of the Illinois Insurance Code)~~.

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~~Insurance Code~~.

- p) ~~Supplementary Supplemental~~ Benefits - Accidental Death and Dismemberment Benefits; ~~Prohibited Language~~

1) ~~Supplemental Benefits~~ May be added to a life policy, even though the Supplemental Death, Dismemberment and Loss of Eyesight Benefits are limited to accidental cause only. ~~The insurance Code sanctions this combination of life and accident benefits in one policy (see Section 4 and 362a of the Illinois Insurance Code)~~ as is provided for by Sections 4 and 362a of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 616 and 974a).

- 2) Language in such supplemental benefits which does not employ "result" language, and which establishes an accidental means test or uses words such as "external," "violent," or "visible wound" is prohibited. Additionally, contributory language (e.g., "or indirectly," "wholly or in part," or "contributed to by") is also prohibited. For purposes of this subsection, "result" language includes but is not limited to death as a result of war, death as a result of suicide and death as a result of flying. For purposes of this subsection, accidental means test requires that both the cause and result of the accident to be an accident.

- 3) Provisions for loss due to accident or accidental injury shall not contain language limiting, reducing or excluding liability for a loss resulting from purely accidental circumstances (e.g., involuntary, or unintentional ingestion of poison or an infectious organism, or inhalation of poisonous gases or fumes) as provided for by Section 143 of the Illinois Insurance Code.

- q) Combination Life and Accident and Health Coverages in Individual Policies

Life and Accident and Health coverages may be combined in an individual policy provided, of course, all statutory requirements are met and the form meets the other tests for approval in Section 143. All individual policies submitted must contain a premium breakdown as to coverages and contain a provision to allow for separation of either part ~~(see Section 143 of the Illinois Insurance Code)~~.

r) Spendthrift and Creditor Clause

The policy may include a Spendthrift and Creditor Clause providing in substance that, except as may be otherwise provided in the policy, a Beneficiary may not, at or after the maturity of the policy, assign, transfer or encumber any benefits payable hereunder, and, to the extent permitted by law, any such benefits shall not be subject to the claims of any creditor of any Beneficiary. Because of the limitations in the statutory provisions relating to the exemption from execution, attachment, garnishment or other process for the debts or liabilities of the insured, no reference to these statutory exemptions is required ~~(see Sections 238 and 241 of the Illinois Insurance Code)~~ as is provided for by Sections 238 and 241 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 850 and 853).

- s) Family Policy - Names of Spouse and Children



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- 1) It is necessary to name the spouse and/or children in either the application or policy only when a separate premium is charged for the individual insured in either of such categories.
- 2) For additional family policy guidelines, refer to 50 Ill. Adm. Code 1403.
- t) Term Life Insurance - Conversion of Term Life Insurance  
A form providing Term Life Insurance with conversion rights without evidence of insurability may not withhold such right of conversion because the covered person has established a Waiver of Premium Disability Claim. The form may, however, withhold Waiver of Premium Benefits under any new policy resulting from the conversion, or, as an alternative reduce the face amount in such new policy by not exceeding 25% if Waiver of Premium Benefits is requested and provided in the new policy.
- u) War Clauses - Life Policies  
War clauses in life policies shall substantially comply with 50 Ill. Adm. Code 1402.
- v) Option to Purchase Additional Life Insurance - Incontestable and Suicide Clause  
1) Any new policy issued pursuant to a Purchase Option guaranteeing insurability shall provide that the period specified in the Incontestable Clause shall expire no later than two years from the latter of date of issue of the original policy, date of issue of the rider containing the purchase option, date of change of the original policy requiring proof of insurability or date of last reinstatement of original policy (See-Section-224(f)) of the Illinois Insurance Code as is provided for by Section 224(l)(c) of the Illinois Insurance Code.
- 2) Any new policy issued pursuant to a Purchase Option may contain a limitation of coverage with respect to death by suicide during the period the policy would be contestable in the absence of issuance under the Purchase Option (See-Section-1405-40(f)) of this Part.
- 3) Company shall indicate to the Department how the Incontestability provision of the new policy will be amended.
- 4) The request form for the exercise of a purchase option shall be furnished to the Department. It may contain medical questions provided it is clearly stated that such questions are to be answered only if coverages additional to those permitted under the Option are applied for.
- w) Insurable Interest at time of Exercising Option  
In a Guaranteed Purchase Option a provision may not be included requiring the existence of an insurable interest when the person exercising the right to purchase is other than the insured.
- x) Riders and Endorsements  
1) Descriptive Title - Unless the nature of the rider or endorsement is obvious (e.g., Home Office Endorsement), the form shall contain a correct descriptive title. Use of words such as "preferred", "special", "select" or "inflation" is prohibited as

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- provided for by Section 143 of the Illinois Insurance Code.
- 2) Effective Date - Rider or endorsement should show its effective date, if other than effective date of policy, either within the text or by reference to a policy provision or in the schedule of benefits.
- 3) Format - Riders and endorsements which are forwarded to the policyowner for attachment to the policy shall contain the following information:  
A) Name of company.  
B) Identity of policy and insured, e.g., Attached to and made a part of Policy No. \_\_\_\_\_ Insured: \_\_\_\_\_.  
C) Its effective date.  
D) Signature of at least one company official.
- 4) Reduction of Benefits - If benefits are reduced, the reduction may be made only pursuant to a signed request or acceptance of the policy owner.
- (Source: Amended at 12 Ill. Reg. 22184, effective December 16, 1988.)
- Section 1405.50 Group Insurance
- a) Group Insurance is defined in Section 230 230.1 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 842.1). Standard Provisions for Group Policies are cited in Section 231 231.1 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 843.1).
- b) Group Insurance - Contributory or Non-Contributory  
The policy should state whether it is either contributory or non-contributory.
- c) Maximum Amount of Group Term Life Under (f) or (g) of Section 230 of the Illinois Insurance Code  
Section 230 of annual compensation not to exceed \$50,000 does not apply to any policy of group life insurance legally in effect on July 18, 1955, to any renewal or renewal thereof issued by the same insurance company or to any reissue thereof by another insurance company on substantially the same terms as the policy it replaces.
- d) If a group policy terminates or is amended to terminate any class of insured persons, the Illinois Insurance Code (Section 231(f)) Section 231.1(k) of the Illinois Insurance Code requires a limited conversion privilege for every insured person who, at termination, had been insured for at least 5 years prior to such termination.
- e) Paid-Up Term Life Insurance Benefit in Group Ordinary Life  
Any group ordinary life insurance form providing a paid-up term life insurance benefit may contain a limitation to the effect that when such paid-up benefit amounts to less than \$1,000, only the alternative cash value as provided in the form shall be payable.
- f) File and Use  
Procedures for filing and approval without review of group term life policies and certificates as well as the completion of Certifications

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENT(S)

of Compliance and Waiver are set forth in 50 Ill. Adm. Code 916.

(Source: Amended at 12 Ill. Reg. 22184, effective December 16, 1988)

## Section 1405.70 Annuities

- a) Standard provisions for Annuities and Pure Endowment contracts are given stated in Section 226 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 838) and for Reversionary or Survivorship Annuity contracts in Section 227 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 839).
- b) Group Annuities  
Required and prohibited provisions are not specifically set forth in the Illinois Insurance Code. Contracts are subject to requirements of Section 143 and 236 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 755 and 848).
- c) Group Variable Annuities  
Group Variable Annuity contracts need not necessarily state the applicable jurisdiction. The applicable jurisdiction for Group Variable Annuity contracts is the jurisdiction where the group master policy is delivered.
- d) Fixed Dollar or Flexible Premium Individual Annuity Contracts - Options to Purchase Additional Annuity  
If options for the purchase of additional annuity benefits are provided, including a Flexible Premium Annuity plan, it must be made clear that the payments (premium) are considered as single "premiums" or purchase payments rather than deposits to distinguish annuity premiums from premiums placed in a Premium Deposit Reserve Account (See Section 226 of the Illinois Insurance Code as provided for by Section 240 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 852)).

## e) Notice to Policyholder

- 1) The policyholder must be made aware of the amount of annuity purchased, either by including a table of values in the contract, or by specifying therein that notices of the current or other values will be sent to the policyholder upon request.
  - 2) The charges, including but not limited to withdrawal and surrender charges, minimum guaranteed interest rates, and a statement of the mortality table to be used must be incorporated in the policy as provided for by Section 229.4 of the Illinois Insurance Code.
- f) Reinstatement  
Evidence of insurability may not be required in order to reinstate an annuity benefit. However, such evidence may be a requirement for reinstatement of any supplemental benefits that may be attached to an annuity contract.
- g) File and Use  
Procedures for filing and approval without review of annuity policies

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENT(S)

as well as the completion of Certifications of Compliance and Waiver are set forth in 50 Ill. Adm. Code 916.

(Source: Amended at 12 Ill. Reg. 22184, effective December 16, 1988)

## Section 1405.80 Alternate and/or Insert Pages

For "alternate" and/or "insert pages", a company may use the following guideline:

- a) If the policy jacket or the outside covers are to be used with more than one plan of insurance, the form should be submitted on this basis. The usual title and brief explanation of the type of policy need not be placed on the jacket or covers. In lieu thereof, this material would be placed at the bottom of the first page, if the front cover is less than a full policy page, or if the cover contains a window. In those instances, the applicable material shall be placed in a position on the first (or specification page) so that it would be exposed even when the cover jacket is over the first page as provided for by Section 224(l)(m) of the Illinois Insurance Code.
- b) In those cases where a fully assembled policy is submitted for review and the pages enclosed therein, said pages need not be identified with a different form number. If the company desires, a page number may be at the bottom center or to the right of the center of the page.
- c) Where the policy is submitted and the review is desired with consideration given to each individual page, the insert pages should be properly identified and the letter of submittal would list each page as a form.
- d) For submittal of alternate or insert pages to be used with existing policies in supply, if the page is to be inserted at the date of issue of the policy, consideration will be given if the form is properly identified. The submittal letter should fully explain the changes that would be made.
- e) If a change is to be made on a previously issued policy, with the consent of the policyholder, this change should be accomplished by an endorsement or rider approved for use in the State of Illinois (See Section 1405.40(x)) as provided for by Section 1405.40(x)(2) of this Part.

(Source: Amended at 12 Ill. Reg. 22184, effective December 16, 1988)

## Section 1405.90 Substitution Filings

A substitution filing of a new form for a previously approved form having the same form number must contain the following:

- a) The certification required by 50 Ill. Adm. Code 916 if the original form was approved pursuant to the File and Use provision of Part 916; and



## NOTICE OF ADOPTED AMENDMENT(S)

b) The approval date of the original form and a statement that the original form was never used.

(Source: Added at 12 Ill. Reg. 22184, effective December 16, 1988)

ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

## NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of Part: Freedom Of Information
- 2) Code Citation: 2 Ill. Adm. Code 2501
- 3) Section Numbers:

2501.10	<u>Adopted Action:</u>
2501.20	Amend
2501.50	Amend
2501.60	Amend
2501.70	Amend
- 4) Statutory Authority: Implementing Section 3(g) of the Freedom of Information Act (Ill. Rev. Stat. 1987, ch. 116, par. 203(g)), and authorized by Section 5(j) of the Public Labor Relations Act (Ill. Rev. Stat. 1987, ch. 48, par. 1605(j)).
- 5) Effective Date of the Rules: December 8, 1988
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this Rule contain an incorporation by reference? No.
- 8) Date filed in Agency's Principal Office: November 23, 1988.
- 9) Notice of Proposal published in Illinois Register: Not Applicable
- 10) Has JCAR issued a Statement of Objection to these Rules? No.
- 11) Difference between proposal and final version: Not Applicable
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will this replace an emergency rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and purpose of the rules: Makes technical changes in Section 1201.10, 2501.20, 2501.50, 2601.60 and 2501.70.
- 16) Information and Questions regarding these Adopted Amendments may be addressed to:

Brian E. Reynolds, Executive Director  
Illinois State Labor Relations Board  
320 West Washington, Suite 500

ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT(S)

Springfield, Illinois 62701  
217/785-3155

The full Text of the Adopted Amendments appears on the following pages:

ILLINOIS REGISTER

ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER XLJ: ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

PART 2501

FREEDOM OF INFORMATION

Section

2501.10 General Categories of Board Records  
2501.20 Availability of Certain Records  
2501.30 Requests for Access to Records  
2501.40 Board's Response to Request  
2501.50 Appeal of Denial of Access  
2501.60 Place and Time of Inspection  
2501.70 Copies

AUTHORITY: Implementing Section 3(g) of The Freedom of Information Act (Supp. to Ill. Rev. Stat. 1987 #982, ch. 116, par. 203(g)), and authorized by Section 5(j) of the Public Labor Relations Act (Supp. to Ill. Rev. Stat. 1987 #982, ch. 48, par. 1605(j)).

SOURCE: Adopted at 9 Ill. Reg. 10067, effective June 17, 1985; amended at 12 Ill. Reg. 22204, effective December 8, 1988.

**Section 2501.10 General Categories of Board Records**

- a) The Labor Relations Boards maintain the following general categories of records:
  - 1) Case records, covering the processing and disposition of representation and unfair labor practice cases, strike investigations, and requests for declaratory rulings.
  - 2) Mediation/Arbitration records, including the Boards' rosters of mediators/arbitrators, requests for panels therefrom, and related records.
  - 3) Collective Bargaining Agreements filed with the Boards by employers under the Boards' jurisdiction.
  - 4) Minutes of Board Meetings.
  - 5) Administrative, fiscal and personnel files, covering the Boards' internal business affairs.
  - 6) General Correspondence.
  - 7) Legislative and rulemaking files, covering analyses of bills and proposed rules, comments thereon, and related records.
- b) Within these general categories, some records are readily available to the public for inspection, others are available upon notice or subject to limitations, and some are deemed confidential and exempt from disclosure under any circumstances. The following Section 2501.20 provides examples.



ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

## NOTICE OF ADOPTED AMENDMENT(S)

(SOURCE: Amended at 12 Ill. Reg. 22204, effective 12/8/88.)**Section 2501.20 Availability of Certain Records**

- a) The following records maintained by the Labor Relations Board are readily available for public inspection, meaning they are subject to disclosure and copies are maintained in such a fashion as to ordinarily be accessible for inspection on short notice:
- 1) Dockets of cases filed with the Boards.
  - 2) Pending Representation Petitions (including for certification, decertification, and modification).
  - 3) Current certifications of exclusive bargaining representatives and certifications of results.
  - 4) Decisions rendered by hearing officers and the Boards.
  - 5) The Illinois Public Employee Mediation/Arbitration Center, including vitae of roster members.
  - 6) Declaratory Rulings rendered by the General Counsels.
  - 7) Minutes of Board meetings, exclusive of closed sessions.
  - 8) Freedom of Information Requests and the records showing their dispositions.
- b) The following records are deemed accessible for public inspection, but may not be available on short notice; advance arrangements should be made:
- 1) Hearing Records, including transcripts, briefs filed to hearing officers and exceptions and briefs filed with the Boards and other record materials from Board-conducted hearings in both representation and unfair labor practice cases.
  - 2) Mediation, Mediation/Arbitration records, including requests to the Boards for the appointment of mediators, fact-finders and arbitrators, the Boards' responses to such requests, and the reports filed with the Boards by fact-finders and interest arbitrators.
  - 3) Strike Investigation records, encompassing petitions for strike investigations and the records developed by the Boards in such cases.
  - 4) Rulemaking files, covering the Boards' proposal, review and adoption of regulations.
  - 5) Collective Bargaining Agreements filed with the Boards by covered employees.
- c) The following records are regarded as confidential and exempt from disclosure under all circumstances:
- 1) Showings of Interest submitted to the Boards in conjunction with petitions in representation cases, and materials generated by the Boards' investigations of such showings.
  - 2) Investigation Files in unfair labor practice cases.
  - 3) Marked ballots and voting lists and other records potentially identifying voters (or non-voters) and the character of their votes in secret ballot elections conducted by the Boards.
  - 4) Internal Personnel Files regarding Board employees.
  - 5) Preliminary drafts, notes, recommendations and memoranda by Board

ILLINOIS STATE LABOR RELATIONS BOARD/  
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## NOTICE OF ADOPTED AMENDMENT(S)

(SOURCE: Amended at 12 Ill. Reg. 22204, effective 12/8/88.)**Section 2501.50 Appeal of Denial of Access**

- a) A person whose written request for public records has been denied by the staff of either Labor Relations Board may appeal the denial to that Board. The appeal must be in writing and must include a copy of the original request, a copy of the denial (if any), and a statement of the reasons why the denial should be overturned.
- b) An appeal to the Local Labor Relations Board shall be addressed to it at 111 North Canal Street, Suite 940, Chicago, Illinois 60606, and shall be clearly designated: "ATTN: FOIA APPEAL". An appeal to the State Labor Relations Board shall be addressed to it at either 320 West Washington, Suite 500, Springfield, Illinois 62702 or 111 North Canal Street, Suite 940, Chicago, Illinois 60606, and shall be clearly designated: "ATTN: FOIA APPEAL".
- c) The Board shall determine a requester's appeal within 7 working days after its receipt. If the Board grants the appeal, a written notice to that effect shall inform the requester how and when the records will be made available. If the Board denies the appeal, in whole or in part, a written notice shall inform the requester that judicial review of the denial is available under Section 11 of the Freedom of Information Act (Supp. to Ill. Rev. Stat. 1987-1988, ch. 116 par. 211).
- d) The Board's failure to determine an appeal within 7 working days after its receipt may be treated by the requester as a denial of the appeal.

(SOURCE: Amended at 12 Ill. Reg. 22204, effective 12/8/88.)**Section 2501.60 Place and Time of Inspection**

- a) Public records maintained by the Local Labor Relations Board will be made available for inspection pursuant to this Part at the Board's offices at 111 North Canal Street, Suite 940, Chicago, Illinois 60606, during regular office hours (8:30 a.m. to 5:00 p.m.), on days other than Saturdays, Sundays and official State holidays.
- b) Public records maintained by the State Labor Relations Board will be made available for inspection pursuant to this Part at the Board's offices at either 320 West Washington Street, Suite 500, Springfield, Illinois 62701 or 111 North Canal Street, Suite 940, Chicago, Illinois 60606, during regular office hours (8:30 a.m. to 5:00 p.m.), on days other than Saturdays, Sundays and official State holidays.

ILLINOIS STATE LABOR RELATIONS BOARD/  
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NOTICE OF ADOPTED AMENDMENT(S)

(SOURCE: Amended at 12 Ill. Reg. 22204, effective 12/8/88 )

Section 2501.70 Copies

Upon proper request, the Labor Relations Boards will furnish copies of public records, which are available for public inspection, at a charge of twenty-five cents per page, plus appropriate postage if the copies are to be mailed. Copies will not be released to the requester until payment in full, by check or money order, of the copying and postage fees has been received.

(SOURCE: Amended at 12 Ill. Reg. 22204, effective 12/8/88 )

ILLINOIS STATE LABOR RELATIONS BOARD/  
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NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of Part: Public Information, Rulemaking and Organization
- 2) Code Citation: 2 Ill. Adm. Code 2500
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2500.10	Amend
2500.220	Amend
Appendix A	Amend
Appendix B	Amend
- 4) Statutory Authority: Implementing Section 4.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1004.01) and authorized by Section 5(j) of the Public Labor Relations Act (Ill. Rev. Stat. 1987, ch. 48, par. 1605(j)).
- 5) Effective Date of the Rules: December 8, 1988
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this Rule contain an incorporation by reference? No.
- 8) Date filed in Agency's Principal Office: November 23, 1988.
- 9) Notice of Proposal published in Illinois Register: Not Applicable
- 10) Has JCAR issued a Statement of Objection to these Rules? No.
- 11) Difference between proposal and final version: Not Applicable
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will this replace an emergency rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and purpose of the rules: Makes technical changes in Section 2500.10 and 2500.220; updates Boards' organizational charts in Appendix A and B.
- 16) Information and Questions regarding these Adopted Amendments may be addressed to:

Brian E. Reynolds, Executive Director  
Illinois State Labor Relations Board  
320 West Washington, Suite 500



ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT(S)

Springfield, Illinois 62701  
217/785-3155

The full Text of the Adopted Amendments appears on the following pages:

ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER XLI: ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

PART 2500  
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section  
2500.10 General Information  
2500.20 Procedural Information  
2500.30 Access to Board Materials

SUBPART B: RULEMAKING

Section  
2500.110 Procedure  
2500.120 Petition for Rulemaking

SUBPART C: ORGANIZATION

Section  
2500.210 Composition of the Board  
2500.220 Staff Structures

APPENDIX A Local Board Organization Chart  
APPENDIX B State Board Organization Chart

AUTHORITY: Implementing Section 4.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987 #983, ch. 127, par. 1004.01) and authorized by Section 5(j) of the Public Labor Relations Act (Supp. to Ill. Rev. Stat. 1987 #983, ch. 48, par. 1605(j)).

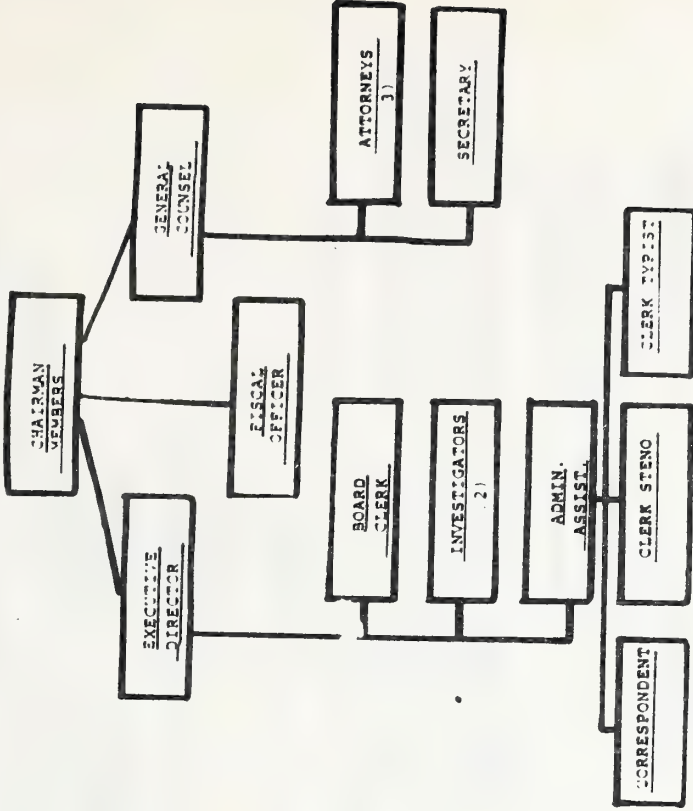
SOURCE: Adopted at 9 Ill. Reg. 10077, effective June 17, 1985; amended at 12 Ill. Reg. 22210, effective December 8, 1988.

SUBPART A: PUBLIC INFORMATION

Section 2500.10 General Information

- a) The Local Labor Relations Board has jurisdiction of labor relations matters involving public employees and units of local government covering non-educational populations in excess of one million persons. Such units include the County of Cook, the City of Chicago, the Chicago Transit Authority, the Metropolitan Sanitary District of Greater Chicago, the Chicago Housing Authority and the Chicago Park District. The Local Board maintains an office

NOTICE OF ADOPTED AMENDMENT(S)  
Section 2500. Appendix A Local Board Organizational Chart



LOCAL LABOR RELATIONS BOARD  
Source: Amended at 12 Ill. Reg. 22210, effective 12/8/88

NOTICE OF ADOPTED AMENDMENT(S)

at 111 North Canal Street, Suite 940, Chicago, Illinois 60606. Its telephone number is (312)793-6400. General information regarding the Local Board and its activities may be obtained by writing or telephoning the Board. Information regarding the Board's docket of pending cases and their status may be obtained by contacting the Board Clerk at the same address and telephone number.

- b) The State Labor Relations Board has jurisdiction of labor relations matters involving public employees and units of local government covering populations of less than one million persons. It maintains offices at 320 West Washington Street, Suite 500, Springfield, Illinois 62701 and 111 North Canal Street, Suite 940, Chicago, Illinois 60606. Its telephone numbers are (217)785-3155 and (312)793-6400. General information regarding the State Board and its activities may be obtained by writing or telephoning the Board at either office. Information regarding the Board's docket of pending cases and their status may be obtained by writing or telephoning the Board Clerk at either office. Information regarding the Board's docket of pending cases and their status may be obtained by contacting the Board Clerk at either office.

(SOURCE: Amended at 12 Ill. Reg. 22210, effective 12/8/88)

Section 2500.220 Staff Structures

The staffs of the Labor Relations Boards are organized chiefly into two divisions, as depicted in Appendix A for the Local Board, and Appendix B for the State Board. Each Board's Executive Director of the Local Board, and the Chief Administrator of the State Board, are responsible for their respective that Boards' administrative operations, and for supervising the Boards' investigators who conduct initial investigations of petitions and unfair labor practice charges filed with each Board. Each Board's General Counsel is responsible for its legal affairs, for advising the Board on legal matters, and for supervising the Board's attorneys who serve as hearing officers in representation and unfair labor practice proceedings.

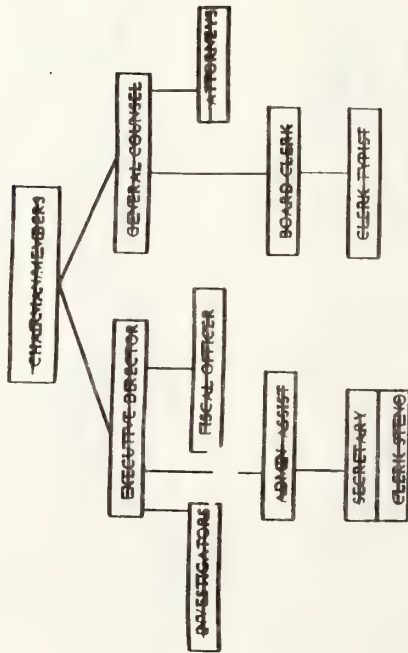
(SOURCE: Amended at 12 Ill. Reg. 22210, effective 12/8/88)



ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT(S)

Section 2500.APPENDIX A Local Board Organization Chart

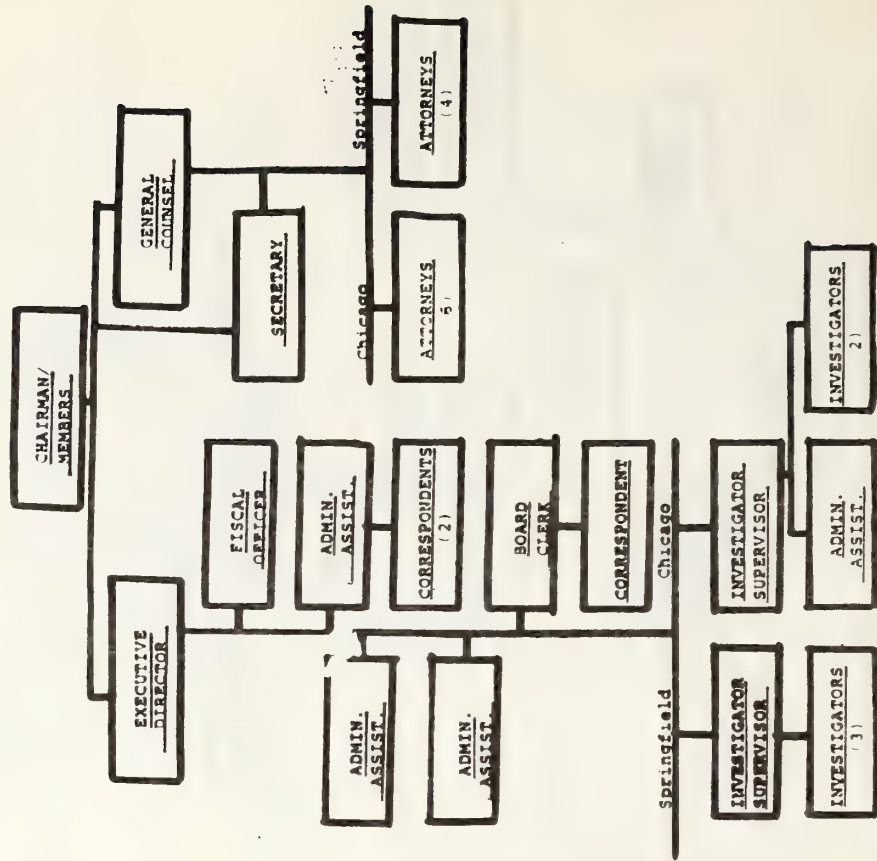


LOCAL LABOR RELATIONS BOARD

ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT(S)

Section 2500.Appendix B State Board Organizational Chart

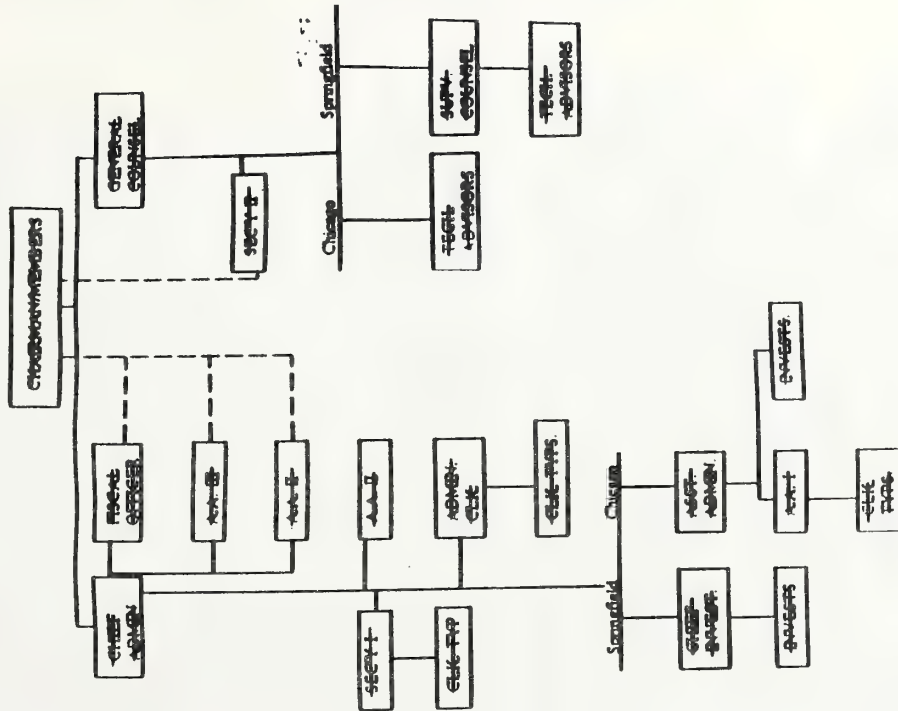


Source: Amended at 12 Ill. Reg. 22210, effective 12/8/88

ILLINOIS STATE LABOR RELATIONS BOARD/  
ILLINOIS LOCAL LABOR RELATIONS BOARD

NOTICE OF ADOPTED AMENDMENT(S)

Section 2500. APPENDIX B State Board Organization Chart



STATE LABOR RELATIONS BOARD

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENT

- 1) The Heading of the Part: CHILD SUPPORT ENFORCEMENT
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) Section Number: Adopted Action: 160.75 Amendment
- 4) Statutory Authority: Sections 10-16.2 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, Ch. 23, Pars. 10-16.2 and 12-13, as amended by Public Acts 85-1156 and 85-1157, effective January 1, 1989).
- 5) Effective Date of Amendment: January 1, 1989
- 6) Does this rulemaking contain an automatic repeal date? Yes X No
- 7) Does this Amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: January 1, 1989
- 9) Notice of Proposal Published in Illinois Register: September 2, 1988 (12 Ill. Reg. 13899)
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Difference between proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this Amendment replace an Emergency Amendment currently in effect? No
- 14) Are there any Amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This proposed rulemaking implements changes in income withholding made by Public Acts 85-1156 and 85-1157. Effective January 1, 1989, it provides for entry of orders for immediate income withholding, except where the parties agree to an alternative arrangement with court approval.



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENT

16) Information and questions regarding this Adopted Amendment shall be directed to:

Name: Myron Brigman, Staff Attorney  
Office of Counseling and Litigation

Address: Illinois Department of Public Aid  
Jessie B. Harris Building II  
100 South Grand Avenue East, 3rd Floor  
Springfield, Illinois 62762

Telephone: (217) 782-1233

The full text of the Adopted Amendment begins on the next page:

## ILLINOIS REGISTER

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER f: COLLECTIONS

## PART 160

## CHILD SUPPORT ENFORCEMENT

## SUBPART A: CHILD SUPPORT ENFORCEMENT

Section  
160.10 Child Support Enforcement Program  
160.20 Assignment of Rights to Support

## SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section  
160.30 Cooperation With Support Enforcement Program  
160.35 Good Cause For Failure to Cooperate With Support Enforcement  
160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement  
160.45 Suspension of Child Support Enforcement Upon Finding of Good Cause

## SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section  
160.60 Establishment and Modification of Support Obligations

## SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section  
160.70 Enforcement of Support Orders  
160.75 Withholding of Income to Secure Payment Of Support  
160.80 Amnesty - 20% Charge

## SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section  
160.90 Earmarking Child Support Payments

AUTHORITY: Implementing and authorized by Sections 4-1.7, Article X, 12-4.3, and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 4-1.7, 10-1 et seq., 12-4.3, and 12-13 and 12-13).

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENT

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; amended at 12 Ill. Reg. 22218, effective January 1, 1989.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 160.75 Withholding of Income to Secure Payment Of Support

## a) Definitions

The definitions contained in Section 10-16.2(A) of the Illinois Public Aid Code (Ill. Rev. Stat. 1985 1987, ch. 23, par. 10-16.2(A)) as amended by P.A. 85-1147, effective July 23, 1987; P.A. 85-2177, effective August 23, 1987; and P.A. 85-2227, effective August 23, 1987, are incorporated herein by reference.

## b) ENTRY OF AN ORDER FOR WITHHOLDING

- 1) UPON ENTRY OF ANY ORDER FOR SUPPORT ON OR AFTER JANUARY 1, 1984, THE COURT SHALL ENTER A SEPARATE ORDER FOR WITHHOLDING WHICH SHALL NOT TAKE EFFECT UNLESS THE OBLIGOR BECOMES DELINQUENT IN PAYING THE ORDER FOR SUPPORT OR THE OBLIGOR REQUESTS AN EARLIER EFFECTIVE DATE; EXCEPT THAT THE COURT MAY REQUIRE THE ORDER FOR WITHHOLDING TO TAKE EFFECT IMMEDIATELY. ON OR AFTER JANUARY 1, 1989, THE COURT SHALL REQUIRE THE ORDER FOR WITHHOLDING TO TAKE EFFECT IMMEDIATELY, UNLESS A WRITTEN AGREEMENT IS REACHED BETWEEN BOTH PARTIES PROVIDING FOR AN ALTERNATIVE ARRANGEMENT, APPROVED BY THE COURT, WHICH INSURES PAYMENT OF SUPPORT. IN THAT CASE, THE COURT SHALL ENTER THE ORDER FOR WITHHOLDING WHICH WILL NOT TAKE EFFECT UNLESS THE OBLIGOR BECOMES DELINQUENT IN PAYING THE ORDER FOR SUPPORT. APPLICATION OF THE PROVISIONS OF THIS PARAGRAPH IS SUBJECT TO THE DISCRETION OF THE COURT IN ALL CASES WHEREIN AN

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENT

Section 160.75

Withholding of Income to Secure Payment Of Support (Cont'd)

ORDER FOR SUPPORT IS ENTERED PRIOR TO JANUARY 1, 1989.

- 2) AN ORDER FOR WITHHOLDING SHALL BE ENTERED UPON PETITION BY THE DEPARTMENT WHERE AN ORDER FOR WITHHOLDING HAS NOT BEEN PREVIOUSLY ENTERED.

- 3) THE ORDER FOR WITHHOLDING SHALL:

- A) DIRECT ANY PAYOR TO WITHHOLD A DOLLAR AMOUNT EQUAL TO THE ORDER FOR SUPPORT; AND

- B) DIRECT ANY PAYOR TO WITHHOLD AN ADDITIONAL DOLLAR AMOUNT, NOT LESS THAN 20 PERCENT OF THE ORDER FOR SUPPORT, UNTIL PAYMENT IN FULL OF ANY DELINQUENCY STATED IN THE NOTICE OF DELINQUENCY PROVIDED FOR IN SECTION 10-16.2(C) OR (F) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(C), AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY 23, 1987; AND P.A. 85-2177, EFFECTIVE AUGUST 23, 1987; AND P.A. 10-16.2(F), AS AMENDED BY P.A. 85-2218, EFFECTIVE JANUARY 1, 1989 1989, AND P.A. 85-2227, EFFECTIVE JANUARY 1, 1989 1989, AND P.A. 85-1157, EFFECTIVE JANUARY 1, 1989); AND

- C) STATE THE RIGHTS, REMEDIES AND DUTIES OF THE OBLIGOR UNDER SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY 23, 1987; P.A. 85-2177, EFFECTIVE AUGUST 23, 1987; P.A. 85-2218, EFFECTIVE JANUARY 1, 1989 1989, AND P.A. 85-2227, EFFECTIVE JANUARY 1, 1989 1989, AND P.A. 85-1157, EFFECTIVE JANUARY 1, 1989).

- 4) AT THE TIME THE ORDER FOR WITHHOLDING IS ENTERED, THE CLERK OF THE CIRCUIT COURT SHALL PROVIDE A COPY OF THE ORDER FOR WITHHOLDING AND THE ORDER FOR SUPPORT TO THE OBLIGOR AND SHALL MAKE COPIES AVAILABLE TO THE OBLIGEE AND THE DEPARTMENT. ANY COPY OF THE ORDER FOR WITHHOLDING FURNISHED TO THE PARTIES UNDER SECTION 10-16.2(B) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(B), AS AMENDED BY P.A.



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENT

Section 160.75 Withholding of Income to Secure Payment Of Support (Cont'd)

85-114, EFFECTIVE 85-1156, EFFECTIVE JANUARY 1, 1988 1989), SHALL BE STAMPED "NOT VALID".

- 5) THE ORDER FOR WITHHOLDING SHALL REMAIN IN EFFECT FOR AS LONG AS THE ORDER FOR SUPPORT UPON WHICH IT IS BASED.
- 6) THE FAILURE OF AN ORDER FOR WITHHOLDING TO STATE AN ARREARAGE IS NOT CONCLUSIVE OF THE ISSUE OF WHETHER AN ARREARAGE IS OWING.
- 7) NOTWITHSTANDING THE PROVISIONS OF SECTION 10-16.2(B) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(B)), AS AMENDED BY P.A. 85-114, EFFECTIVE 85-1156, EFFECTIVE JANUARY 1, 1988 1989), IF THE COURT FINDS AT THE TIME OF ANY HEARING THAT AN ARREARAGE HAS ACCRUED IN AN AMOUNT EQUAL TO AT LEAST ONE MONTH'S SUPPORT OBLIGATION OR THAT THE OBLIGOR IS 30 DAYS LATE IN PAYING ALL OR PART OF THE ORDER FOR SUPPORT, THE COURT SHALL ORDER IMMEDIATE SERVICE OF THE ORDER FOR WITHHOLDING UPON THE PAYOR.

## c) NOTICE OF DELINQUENCY

- 1) WHENEVER AN OBLIGOR BECOMES DELINQUENT IN PAYMENT OF AN AMOUNT EQUAL TO AT LEAST ONE MONTH'S SUPPORT OBLIGATION PURSUANT TO THE ORDER FOR SUPPORT OR IS AT LEAST 30 DAYS LATE IN PAYING ALL OR PART OF THE ORDER FOR SUPPORT, WHICHEVER OCCURS FIRST, THE DEPARTMENT MAY PREPARE AND SERVE A VERIFIED NOTICE OF DELINQUENCY, TOGETHER WITH A FORM PETITION TO STAY SERVICE, PURSUANT TO SECTION 10-16.2(C) OF THE "ILLINOIS PUBLIC AID CODE", (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(C)) AS AMENDED BY P.A. 85-114, EFFECTIVE 85-1156, EFFECTIVE JANUARY 1, 1988 1989).
- 2) THE OBLIGOR MAY EXECUTE A WRITTEN WAIVER OF THE PROVISIONS OF SECTION 10-16.2(C) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(C)) AS AMENDED BY P.A. 85-114, EFFECTIVE 85-1156, EFFECTIVE JANUARY 1, 1988 1989).

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENT

Section 160.75 Withholding of Income to Secure Payment Of Support (Cont'd)

85-114, EFFECTIVE 85-1156, EFFECTIVE JANUARY 1, 1988 1989), AND REQUEST IMMEDIATE SERVICE UPON THE PAYOR.

## d) PROCEDURES TO AVOID INCOME WITHHOLDING

- 1) EXCEPT AS PROVIDED IN SECTION 10-16.2(F) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(F)), AS AMENDED BY P.A. 85-221, EFFECTIVE JANUARY 1, 1988 1989), AND P.A. 85-1157, EFFECTIVE JANUARY 1, 1989) THE OBLIGOR MAY PREVENT AN ORDER FOR WITHHOLDING FROM BEING SERVED BY FILING A PETITION TO STAY SERVICE WITH THE CLERK OF THE CIRCUIT COURT, WITHIN 20 DAYS AFTER SERVICE OF THE NOTICE OF DELINQUENCY; HOWEVER, THE GROUNDS FOR THE PETITION TO STAY SERVICE SHALL BE LIMITED TO:

- A) A DISPUTE CONCERNING THE AMOUNT OF CURRENT SUPPORT OR THE EXISTENCE OR AMOUNT OF THE DELINQUENCY;
  - B) THE IDENTITY OF THE OBLIGOR.
- 2) THE CLERK OF THE CIRCUIT COURT SHALL NOTIFY THE OBLIGOR AND THE OBLIGEE OR DEPARTMENT, AS APPROPRIATE, OF THE TIME AND PLACE OF THE HEARING ON THE PETITION TO STAY SERVICE. THE COURT SHALL HOLD SUCH HEARING PURSUANT TO THE PROVISIONS OF SECTION 10-16.2(H) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(H)), AS AMENDED BY P.A. 85-1156, EFFECTIVE JANUARY 1, 1988 1989).
  - 3) EXCEPT AS PROVIDED IN SECTION 10-16.2(F) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(F)), AS AMENDED BY P.A. 85-221, EFFECTIVE JANUARY 1, 1988 1989), AND P.A. 85-1157, EFFECTIVE JANUARY 1, 1989) FILING OF A PETITION TO STAY SERVICE, WITHIN THE 20-DAY PERIOD REQUIRED UNDER SECTION 10-16.2(D) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(D)) AS AMENDED BY P.A. 85-221, EFFECTIVE 85-1156, EFFECTIVE JANUARY 1, 1988 1989).

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENT

## Section 160.75

Withholding of Income to Secure Payment Of Support (Cont'd)

JANUARY-17-1988), SHALL PROHIBIT THE OBLIGEE OR THE DEPARTMENT FROM SERVING THE ORDER FOR WITHHOLDING ON ANY PAYOR OF THE OBLIGOR.

## e) INITIAL SERVICE OF ORDER FOR WITHHOLDING

EXCEPT AS PROVIDED IN SECTION 10-16.2(F) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1987, CH. 23, PAR. 10-16.2(F), AS AMENDED BY P.A. 85-1156, EFFECTIVE JANUARY 1, 1989 AND P.A. 85-1157, EFFECTIVE JANUARY 1, 1989), IN ORDER TO SERVE AN ORDER FOR WITHHOLDING UPON A PAYOR, THE DEPARTMENT SHALL FOLLOW THE PROCEDURES SET FORTH IN SECTION 10-16.2(E) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(E), AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY-23-1987, P.A.-85-217, EFFECTIVE AUGUST 23-1987, P.A.-85-221 85-1156, EFFECTIVE JANUARY 1, 1988, AND P.A.-85-222, EFFECTIVE AUGUST-23-1987 1989).

## f) SUBSEQUENT SERVICE OF ORDER FOR WITHHOLDING

1) NOTWITHSTANDING THE PROVISIONS OF SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY-23-1987, P.A.-85-217, EFFECTIVE AUGUST-23-1987, P.A.-85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989 AND P.A. 85-222 85-1157, EFFECTIVE AUGUST-23-1987 JANUARY 1, 1989), AT ANY TIME AFTER THE COURT HAS ORDERED IMMEDIATE SERVICE OF AN ORDER FOR WITHHOLDING OR AFTER INITIAL SERVICE OF AN ORDER FOR WITHHOLDING PURSUANT TO SECTION 10-16.2(E) OF THE "ILLINOIS PUBLIC AID CODE", (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(E), AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY-23-1987, P.A.-85-217, EFFECTIVE AUGUST-23-1987, P.A.-85-221 85-1156, EFFECTIVE JANUARY 1, 1988 AND P.A.-85-222, EFFECTIVE AUGUST-23-1987 1989), THE OBLIGEE OR DEPARTMENT MAY SERVE THE ORDER FOR WITHHOLDING UPON ANY PAYOR OF THE OBLIGOR WITHOUT FURTHER NOTICE TO THE OBLIGOR, PURSUANT TO SECTION 10-16.2(F) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(F), AS AMENDED BY P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENT

## Section 160.75

Withholding of Income to Secure Payment Of Support (Cont'd)

1989, AND P.A. 85-1157, EFFECTIVE JANUARY 1, 1989). THE OBLIGEE OR DEPARTMENT SHALL PROVIDE NOTICE TO THE PAYOR, PURSUANT TO PARAGRAPH (6) OF SECTION 10-16.2(I) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(I)(6) 7-AS-AMENDED-BY-P.A.-85-1147, EFFECTIVE JULY-23-1987-AND-P.A.-85-221, EFFECTIVE JANUARY-17-1988), OF ANY PAYMENTS THAT HAVE BEEN MADE THROUGH PREVIOUS WITHHOLDING OR ANY OTHER METHOD.

2) THE CLERK OF THE CIRCUIT COURT SHALL, UPON REQUEST, PROVIDE THE OBLIGEE OR DEPARTMENT WITH SPECIALLY CERTIFIED COPIES OF THE ORDER FOR WITHHOLDING OR THE NOTICE OF DELINQUENCY OR BOTH WHENEVER THE COURT HAS ORDERED IMMEDIATE SERVICE OF AN ORDER FOR WITHHOLDING OR AN AFFIDAVIT HAS BEEN PLACED IN THE COURT FILE INDICATING THAT THE PRECONDITIONS FOR SERVICE HAVE BEEN PREVIOUSLY MET. (SEE SECTION 10-16.2 OF THE ILLINOIS PUBLIC AID CODE (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A.-85-1147, EFFECTIVE JULY-23-1987, P.A.-85-217, EFFECTIVE AUGUST-23-1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST-23-1987 JANUARY 1, 1989). THE OBLIGEE OR DEPARTMENT MAY THEN SERVE THE ORDER FOR WITHHOLDING ON THE PAYOR, ITS SUPERINTENDENT, MANAGER OR OTHER AGENT BY CERTIFIED MAIL OR PERSONAL DELIVERY. A PROOF OF SERVICE SHALL BE FILED WITH THE CLERK OF THE CIRCUIT COURT.

3) IF A DELINQUENCY HAS ACCRUED FOR ANY REASON, THE OBLIGEE OR DEPARTMENT WILL SERVE A NOTICE OF DELINQUENCY UPON THE OBLIGOR PURSUANT TO SECTION 10-16.2(C) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(C) 7-AS-AMENDED-BY-P.A.-85-1147, EFFECTIVE JULY-23-1987-AND-P.A.-85-221, EFFECTIVE JANUARY-17-1988). THE OBLIGOR MAY PREVENT THE NOTICE OF DELINQUENCY FROM BEING SERVED UPON THE PAYOR BY UTILIZING THE PROCEDURES SET FORTH IN SECTION 10-16.2(D) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(D) 7-AS-AMENDED-BY-P.A.-85-221, EFFECTIVE



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Section 160.75 Withholding of Income to Secure Payment Of Support (Cont'd)

JANUARY 1, 1988). IF NO PETITION TO STAY SERVICE HAS BEEN FILED WITHIN THE REQUIRED 20-DAY TIME PERIOD, THE OBLIGEE OR DEPARTMENT WILL SERVE THE NOTICE OF DELINQUENCY ON THE PAYOR BY UTILIZING THE PROCEDURES FOR SERVICE SET FORTH IN SECTION 10-16.2(E) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(E), AS AMENDED BY P.A. 85-1147-BEFFEKTIVE 10-16.2(E), P.A. 85-2177-BEFFEKTIVE AUGUST 23, 1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988-AND P.A. 85-2227-BEFFEKTIVE AUGUST 23, 1987 1989).

g) DUTIES OF PAYOR

1) IT SHALL BE THE DUTY OF ANY PAYOR WHO HAS BEEN SERVED WITH A COPY OF THE SPECIALLY CERTIFIED ORDER FOR WITHHOLDING AND A ANY NOTICE OF DELINQUENCY TO DEDUCT AND PAY OVER INCOME AS PROVIDED IN SECTION 10-16.2(G) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(G), AS AMENDED BY P.A. 85-217 85-1156, EFFECTIVE AUGUST 23, 1987 JANUARY 1, 1989, AND P.A. 85-221 85-1157, EFFECTIVE JANUARY 1, 1988 1989).

2) WHENEVER THE OBLIGOR IS NO LONGER RECEIVING INCOME FROM THE PAYOR, THE PAYOR SHALL RETURN A COPY OF THE ORDER FOR WITHHOLDING TO THE DEPARTMENT AND SHALL PROVIDE INFORMATION FOR THE PURPOSE OF ENFORCING SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147-BEFFEKTIVE JULY 23, 1987-P.A. 85-2177-BEFFEKTIVE AUGUST 23, 1987-P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, and P.A. 85-222 85-1157, EFFECTIVE AUGUST 23, 1987 JANUARY 1, 1989).

3) NO PAYOR SHALL DISCHARGE, DISCIPLINE, REFUSE TO HIRE OR OTHERWISE PENALIZE ANY OBLIGOR BECAUSE OF THE DUTY TO WITHHOLD INCOME.

h) PETITIONS TO STAY SERVICE OR TO MODIFY, SUSPEND OR TERMINATE ORDERS FOR WITHHOLDING

NOTICE OF ADOPTED AMENDMENT

Section 160.75 Withholding of Income to Secure Payment Of Support (Cont'd)

1) WHEN AN OBLIGOR FILES A PETITION TO STAY SERVICE, THE COURT, AFTER DUE NOTICE TO ALL PARTIES, SHALL HEAR THE MATTER AS SOON AS PRACTICABLE AND SHALL ENTER AN ORDER GRANTING OR DENYING RELIEF, AMENDING THE NOTICE OF DELINQUENCY, AMENDING THE ORDER FOR WITHHOLDING, WHERE APPLICABLE, OR OTHERWISE RESOLVING THE MATTER. IF THE COURT FINDS THAT A DELINQUENCY EXISTED WHEN THE NOTICE OF DELINQUENCY WAS SERVED UPON THE OBLIGOR, IN AN AMOUNT OF AT LEAST ONE MONTH'S SUPPORT OBLIGATION, OR THAT THE OBLIGOR WAS AT LEAST 30 DAYS LATE IN PAYING ALL OR PART OF THE ORDER FOR SUPPORT, THE COURT SHALL ORDER IMMEDIATE SERVICE OF THE ORDER FOR WITHHOLDING. WHERE THE COURT CANNOT PROMPTLY RESOLVE ANY DISPUTE OVER THE AMOUNT OF THE DELINQUENCY, THE COURT MAY ORDER IMMEDIATE SERVICE OF THE ORDER FOR WITHHOLDING AS TO ANY UNDISPUTED AMOUNTS SPECIFIED IN AN AMENDED NOTICE OF DELINQUENCY, AND MAY CONTINUE THE HEARING ON THE DISPUTED AMOUNTS.

2) AT ANY TIME, AN OBLIGOR, OBLIGEE, THE DEPARTMENT OR CLERK OF THE CIRCUIT COURT MAY PETITION THE COURT TO:

- A) MODIFY, SUSPEND OR TERMINATE THE ORDER FOR WITHHOLDING BECAUSE OF A MODIFICATION, SUSPENSION OR TERMINATION OF THE UNDERLYING ORDER FOR SUPPORT; OR
- B) MODIFY THE AMOUNT OF INCOME TO BE WITHHELD TO REFLECT PAYMENT IN FULL OR IN PART OF THE DELINQUENCY OR ARREARAGE BY INCOME WITHHOLDING OR OTHERWISE; OR
- C) SUSPEND THE ORDER FOR WITHHOLDING BECAUSE OF INABILITY TO DELIVER INCOME WITHHELD TO THE OBLIGEE DUE TO THE OBLIGEE'S FAILURE TO PROVIDE A MAILING ADDRESS OR OTHER MEANS OF DELIVERY.

3) AT ANY TIME, AN OBLIGOR MAY PETITION THE COURT TO TERMINATE THE WITHHOLDING OF INCOME BECAUSE PAYMENTS PURSUANT TO THE ORDER FOR WITHHOLDING

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Section 160.75 Withholding of Income to Secure Payment of Support (Cont'd)

HAVE BEEN MADE FOR AT LEAST 3 YEARS AND ALL ARREARAGES HAVE BEEN PAID, -- FOR ANY PETITION BROUGHT UNDER THIS PARAGRAPH THE COURT SHALL SUSPEND THE ORDER FOR WITHHOLDING UNLESS IT FINDS GOOD CAUSE FOR DENYING THE PETITION -- IF THE OBLIGOR SUBSEQUENTLY BECOMES DELINQUENT IN PAYMENT OF THE ORDER FOR SUPPORT, THE OBLIGEE OR PUBLIC OFFICE MAY SERVE ANOTHER ORDER FOR WITHHOLDING BY COMPLYING WITH ALL REQUIREMENTS FOR NOTICE AND SERVICE PURSUANT TO SECTION 10-16.2 OF THE ILLINOIS PUBLIC AID CODES -- (ILL. REV. STAT. 1985, CH. 23, PAR. 10-16.2) -- AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY 23, 1987, P.A. 85-2177, EFFECTIVE AUGUST 23, 1987, P.A. 85-2217, EFFECTIVE JANUARY 1, 1988, AND P.A. 85-2227, EFFECTIVE AUGUST 23, 1987.

4)3) THE OBLIGOR, OBLIGEE OR THE DEPARTMENT SHALL SERVE ON THE PAYOR, BY CERTIFIED MAIL OR PERSONAL DELIVERY, A COPY OF ANY ORDER ENTERED PURSUANT TO SECTION 10-16.2(H) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(H), AS AMENDED BY P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989), THAT AFFECTS THE DUTIES OF THE PAYOR.

5)4) THE ORDER FOR WITHHOLDING SHALL CONTINUE TO BE BINDING UPON THE PAYOR UNTIL SERVICE OF ANY ORDER OF THE COURT ENTERED UNDER SECTION 10-16.2(H) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(H), AS AMENDED BY P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989).

## i) ADDITIONAL DUTIES

1) AN OBLIGEE WHO IS RECEIVING INCOME WITHHOLDING PAYMENTS UNDER SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY 23, 1987, P.A. 85-2177, EFFECTIVE AUGUST 23, 1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST 23, 1987 JANUARY 1, 1989) SHALL

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Section 160.75 Withholding of Income to Secure Payment of Support (Cont'd)

NOTIFY THE PAYOR, IF THE OBLIGEE RECEIVES THE PAYMENTS DIRECTLY FROM THE PAYOR, OR THE DEPARTMENT OR THE CLERK OF THE CIRCUIT COURT, AS APPROPRIATE, OF ANY CHANGE OF ADDRESS WITHIN SEVEN (7) DAYS OF SUCH CHANGE.

2) AN OBLIGEE WHO IS A RECIPIENT OF PUBLIC AID SHALL SEND A COPY OF ANY NOTICE OF DELINQUENCY FILED PURSUANT TO SECTION 10-16.2(C) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(C)) AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY 23, 1987, AND P.A. 85-2217, EFFECTIVE JANUARY 1, 1988) TO THE BUREAU OF CHILD SUPPORT ENFORCEMENT OF THE DEPARTMENT.

3) EACH OBLIGOR SHALL NOTIFY THE OBLIGEE AND THE CLERK OF THE CIRCUIT COURT OF ANY CHANGE OF ADDRESS WITHIN 7 DAYS.

4) AN OBLIGOR WHOSE INCOME IS BEING WITHHELD OR WHO HAS BEEN SERVED WITH A NOTICE OF DELINQUENCY PURSUANT TO SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY 23, 1987, P.A. 85-2177, EFFECTIVE AUGUST 23, 1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST 23, 1987 JANUARY 1, 1989) SHALL NOTIFY THE OBLIGEE AND THE CLERK OF THE CIRCUIT COURT OF ANY NEW PAYOR, WITHIN SEVEN (7) DAYS.

5) WHEN THE DEPARTMENT IS NO LONGER AUTHORIZED TO RECEIVE PAYMENTS FOR THE OBLIGEE, IT SHALL, WITHIN SEVEN (7) DAYS NOTIFY THE PAYOR OR, WHERE APPROPRIATE, THE CLERK OF THE CIRCUIT COURT, TO REDIRECT INCOME WITHHOLDING PAYMENTS TO THE OBLIGEE.

6) THE OBLIGEE OR THE DEPARTMENT SHALL PROVIDE NOTICE TO THE PAYOR AND CLERK OF THE CIRCUIT COURT OF ANY OTHER SUPPORT PAYMENT MADE, INCLUDING BUT NOT LIMITED TO, A SET-OFF UNDER FEDERAL AND STATE LAW OR PARTIAL PAYMENT OF THE DELINQUENCY OR ARREARAGE, OR BOTH (SEE SECTION 160.70).



Section 160.75 Withholding of Income to Secure Payment Of Support (Cont'd)

7) THE DEPARTMENT AND CLERK OF THE CIRCUIT COURT WHICH COLLECTS, DISBURSES OR RECEIVES PAYMENTS PURSUANT TO ORDERS FOR WITHHOLDING SHALL MAINTAIN COMPLETE, ACCURATE AND CLEAR RECORDS OF ALL PAYMENTS AND THEIR DISBURSEMENTS. CERTIFIED COPIES OF PAYMENT RECORDS MAINTAINED BY THE DEPARTMENT OR CLERK OF THE CIRCUIT COURT SHALL, WITHOUT FURTHER PROOF, BE ADMITTED INTO EVIDENCE IN ANY LEGAL PROCEEDINGS UNDER SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE AUGUST-237-1987, P.A. 85-2177, EFFECTIVE AUGUST-237-1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST-237-1987 JANUARY 1, 1989).

8) THE DEPARTMENT SHALL DESIGN SUGGESTED LEGAL FORMS FOR PROCEEDING UNDER SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE AUGUST-237-1987, P.A. 85-2177, EFFECTIVE AUGUST-237-1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST-237-1987 JANUARY 1, 1989) AND SHALL MAKE AVAILABLE TO THE COURTS SUCH FORMS AND INFORMATIONAL MATERIALS WHICH DESCRIBE THE PROCEDURES AND REMEDIES SET FORTH HEREIN FOR DISTRIBUTION TO ALL PARTIES IN SUPPORT ACTIONS.

j) Penalties Penalties

1) WHERE A PAYOR WILFULLY FAILS TO WITHHOLD OR PAY OVER INCOME PURSUANT TO A VALID ORDER FOR WITHHOLDING, OR WILFULLY DISCHARGES, DISCIPLINES, REFUSES TO HIRE OR OTHERWISE PENALIZES AN OBLIGOR AS PROHIBITED BY SECTION 10-16.2(G), OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(G) AS AMENDED BY P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-1157, EFFECTIVE JANUARY 1, 1989), OR OTHERWISE FAILS TO COMPLY WITH ANY DUTIES IMPOSED BY SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE

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JULY-237-1987, P.A. 85-2177, EFFECTIVE AUGUST-237 1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST-237-1987 JANUARY 1, 1989), THE COURT, UPON DUE NOTICE AND HEARING:

- A) SHALL ENTER JUDGMENT AND DIRECT THE ENFORCEMENT THEREOF FOR THE TOTAL AMOUNT THAT THE PAYOR WILFULLY FAILED TO WITHHOLD OR PAY OVER; AND
- B) MAY ORDER EMPLOYMENT OR REINSTATEMENT OF OR RESTITUTION TO THE OBLIGOR, OR BOTH, WHERE THE OBLIGOR HAS BEEN DISCHARGED, DISCIPLINED, DENIED EMPLOYMENT OR OTHERWISE PENALIZED BY THE PAYOR AND MAY IMPOSE A FINE UPON THE PAYOR NOT TO EXCEED \$200.

2) ANY OBLIGEE, THE DEPARTMENT OR OBLIGOR WHO WILFULLY INITIATES A FALSE PROCEEDING UNDER SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE AUGUST-237 1987, P.A. 85-2177, EFFECTIVE AUGUST-237-1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST-237-1987 JANUARY 1, 1989), OR WHO WILFULLY FAILS TO COMPLY WITH THE REQUIREMENTS OF SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE AUGUST-237-1987, P.A. 85-2177, EFFECTIVE AUGUST-237-1987, P.A. 85-221 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST-237 1987 JANUARY 1, 1989), SHALL BE PUNISHED AS IN CASES OF CONTEMPT OF COURT.

k) ALTERNATIVE PROCEDURES FOR ENTRY AND SERVICE OF AN ORDER FOR WITHHOLDING. EFFECTIVE JANUARY 1, 1987, IN ANY MATTER IN WHICH AN ORDER FOR WITHHOLDING HAS NOT BEEN ENTERED FOR ANY REASON, BASED UPON THE LAST ORDER FOR SUPPORT THAT HAS BEEN ENTERED, AND IN WHICH THE OBLIGOR HAS BECOME DELINQUENT IN PAYMENT OF AN AMOUNT EQUAL TO AT LEAST ONE MONTH'S SUPPORT OBLIGATION

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## NOTICE OF ADOPTED AMENDMENT

## Section 160.75

Withholding of Income to Secure Payment Of Support (Cont'd)

PURSUANT TO THE LAST ORDER FOR SUPPORT OR IS AT LEAST 30 DAYS LATE IN PAYING ALL OR PART OF THE ORDER FOR SUPPORT, THE OBLIGEE OR DEPARTMENT MAY PREPARE AND SERVE AN ORDER FOR WITHHOLDING PURSUANT TO THE PROCEDURES SET FORTH IN SECTION 10-16.2(K) OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2(K)) AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY-23-1987 AND P.A. 85-3227, EFFECTIVE JANUARY-17-1988).

## 1) REMEDIES IN ADDITION TO OTHER LAWS

THE RIGHTS, REMEDIES, DUTIES AND PENALTIES CREATED BY SECTION 10-16.2 OF THE "ILLINOIS PUBLIC AID CODE" (ILL. REV. STAT. 1985 1987, CH. 23, PAR. 10-16.2, AS AMENDED BY P.A. 85-1147, EFFECTIVE JULY-23-1987 AND P.A. 85-3227, EFFECTIVE AUGUST-23-1987 AND P.A. 85-1156, EFFECTIVE JANUARY 1, 1988 1989, AND P.A. 85-222 85-1157, EFFECTIVE AUGUST-23-1987 JANUARY 1, 1989) ARE IN ADDITION TO AND NOT IN SUBSTITUTION FOR ANY OTHER RIGHTS, REMEDIES, DUTIES AND PENALTIES CREATED BY ANY OTHER LAW.

(Source: Amended at 12 Ill. Reg. 22218, effective January 1, 1989)

## DEPARTMENT OF STATE POLICE

## NOTICE OF ADOPTED RULES

1) Heading of Part: Missing Person Birth Records and School Registration

2) Code Citation: 20 Ill. Adm. Code 1290

3) Section Numbers:

1290.10  
1290.20  
1290.30  
1290.40  
1290.50  
1290.60  
1290.70

Adopted Action:  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section

4) Statutory Authority: Implementing and authorized by Section 1 of "AN ACT to require the registration of habitual child sex offenders and in relation to the confidentiality of information concerning minor victims of sex offenses and concerning missing children" (Ill. Rev. Stat. 1987, ch. 23, par. 2271) and Section 1 of "AN ACT in relation to children" (Ill. Rev. Stat. 1987, ch. 23, par. 2281).

5) Effective Date of Rules: December 13, 1988

6) Does this rulemaking contain an automatic repeal date? No.

7) Does this rule contain incorporations by reference? No.

8) Date filed in Agency's Principal Office: November 16, 1988

9) Notice of proposal published in Illinois Register:

June 3, 1988, 12 Ill. Reg. 9415

10) Has JCER issued a Statement of Objections to these rules? No.

11) Differences between proposal and final version:

The long titles of the two Acts referenced in the authority note and in Section 1290.20(a) and (b) have been placed in quotation marks and section numbers have been inserted before the long titles of the two Acts.

The statutory references in the authority note and in the text have been updated to reflect the 1987 edition of the Illinois Revised Statutes.

In Section 1290.20, the following have been added to Paragraph (b):

"Department": The Illinois Department of State Police.

"Registrar": The State Registrar of Vital Records.



In Section 1290.20(a), "et seq." has been deleted from the two statutory citations.

In Section 1290.20(b), the words "definition applies" has been replaced with "definitions apply."

In Section 1290.40, Sections 2273 and 2283 of the two Acts respectively have been referenced by adding the phrase "paragraphs 2273 and 2283 of" after "required by" in line one of Section 1290.40.

In Section 1290.50, the phrase "requested in person" has been replaced with "requested by a person."

In Section 1290.50, "pursuant to paragraphs 2273 and 2283 of the Acts" has been inserted after the phrase "requested in person" (now "requested by a person").

In Section 1290.50, "one form of photo identification must be presented by the requesting person" has been replaced with "the person's driver's license shall be requested or, if unavailable, one other form of identification must be presented."

In Section 1290.60(a), the phrase "other than as specified in the Acts," has been replaced with "other than a certified copy of the student's birth certificate,".

In Section 1290.60(b) "paragraphs 2275(b) and 2285(b) of" has been inserted after the phrase "reports required by."

Section 1290.60(c) has been deleted and (d) has been relabelled as (c).

In Section 1290.60(d) (now (c)), the words "pursuant to paragraphs 2273 and 2283" have been added after the phrase "flagged student records."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will this rule replace an emergency rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of Rules: The provisions of the authorizing statutes require the flagging of certain birth records to assist in locating missing children and missing persons. When these flagged records are requested or when school registration is made without proper records, law enforcement officers are notified and the circumstances can be investigated. These proposed rules clarify the procedures involved.

16) Information and questions regarding this adopted rule shall be directed to:

Mr. James W. Redlich  
Legal Advisor  
Illinois State Police  
201 Armory Building  
Springfield, Illinois 62706  
217 - 782-4658.

The full text of the Adopted Rules begins on the next page:

## DEPARTMENT OF STATE POLICE

## NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT  
CHAPTER II: DEPARTMENT OF STATE POLICE

## PART 1290

## MISSING PERSON BIRTH RECORDS AND SCHOOL REGISTRATION

## SUBPART A: PROMULGATION

Section  
1290.10  
1290.20

Purpose  
Definitions

## SUBPART B: REQUIREMENTS AND PROCEDURES

Section  
1290.30  
1290.40  
1290.50  
1290.60  
1290.70

Department Notification Requirements  
Registrar Notification Requirements  
Custodian Identification Procedures  
School Enrollment Identification and Reports  
Miscellaneous Provisions

**AUTHORITY:** Implementing and authorized by Section 1 of "AN ACT to require the registration of habitual child sex offenders and in relation to the confidentiality of information concerning minor victims of sex offenses and concerning missing children" (Ill. Rev. Stat. 1987, ch. 23, par. 2271) and Section 1 of "AN ACT in relation to children" (Ill. Rev. Stat. 1987, ch. 23, par. 2281).

**SOURCE:** Adopted at 12 Ill. Reg. \_\_\_\_\_, effective December 13, 1988.

## SUBPART A: PROMULGATION

## Section 1290.10 Purpose

The purpose of this Part is to facilitate the locating and return of missing persons by establishing procedures relating to birth records and school registration.

## Section 1290.20 Definitions

- a) Unless specified otherwise, all terms shall have the meaning set forth in Section 1 of "AN ACT to require the registration of habitual child sex offenders and in relation to the confidentiality of information concerning minor victims of sex offenses and concerning missing children" (Ill. Rev. Stat. 1987, ch. 23, par. 2271) and Section 1 of "AN ACT in relation to children" (Ill. Rev. Stat. 1987, ch. 23, par. 2281).

## DEPARTMENT OF STATE POLICE

## NOTICE OF ADOPTED RULES

- b) For the purposes of these rules, the following definition applies:

"Acts": "AN ACT to require the registration of habitual child sex offenders and in relation to the confidentiality of information concerning minor victims of sex offenses and concerning missing children" (Ill. Rev. Stat. 1987, ch. 23, par. 2271 et seq.) and "AN ACT in relation to children" (Ill. Rev. Stat. 1987, ch. 23, par. 2281 et seq.).

"Department": The Illinois Department of State Police.

"Registrar": The State Registrar of Vital Records.

## SUBPART B: REQUIREMENTS AND PROCEDURES

## Section 1290.30 Department Notification Requirements

Notifications required by the Acts to be made by the Department shall include, if known, at least the name, date of birth, and sex of the missing child or missing person. This information shall be provided in written form or by electronic data transfer.

## Section 1290.40 Registrar Notification Requirements

Notifications required by paragraphs 2273 and 2283 of the Acts to be made by the Registrar to city, municipality, or county custodians shall include, if known, at least the name, date of birth, and sex of the missing child or missing person. This information shall be provided in written form or by electronic data transfer.

## Section 1290.50 Custodian Identification Procedures

The form required by paragraphs 2274(b) and 2284(b) of the Acts to be completed by a person requesting a flagged birth certificate shall include the name, date of birth, mailing address, and telephone number of the requesting person and the relationship of the requesting person to the missing child or missing person. When a flagged birth certificate is requested by a person, pursuant to paragraphs 2273 and 2283 of the Acts the person's driver's license shall be requested or, if unavailable, one other form of identification must be presented. This identification must contain a photograph that accurately portrays the requesting person. The custodian shall make and retain a photocopy of the tendered identification.

## Section 1290.60 School Enrollment Identification and Reports

- a) No proof of the student's identity and age, other than a certified copy of the student's birth certificate, shall be accepted. The Department finds no other proof to be reliable.
- b) The reports required by paragraphs 2275(b) and 2285(b) of the Acts,



## DEPARTMENT OF STATE POLICE

## NOTICE OF ADOPTED RULES

which identify those enrollments failing to comply with the Acts, shall be in writing and shall include at least the student's name, sex, race, and date of birth.

- c) The reports required by paragraphs 2275(b) and 2285(b) of the Acts, which identify requests for flagged student records pursuant to paragraphs 2273 and 2283, shall be in writing; shall include at least the student's name, sex, race, and date of birth; and shall provide the name of the party requesting the record.

## Section 1290.70 Miscellaneous Provisions

- a) All requirements and procedures contained in the Acts shall be followed.
- b) All reports made to the Department under the provisions of the Acts shall be directed to the nearest local office of the Department's Division of Criminal Investigation or to the State Headquarters of the Department's Division of Criminal Investigation.

## DEPARTMENT OF STATE POLICE

## NOTICE OF ADOPTED RULES

- 1) Heading of Part: Missing Person Notification
- 2) Code Citation: 20 Ill. Adm. Code 1291
- 3) Section Numbers:  
     1291.10  
     1291.20  
     1291.30  
     1291.40
- Adopted Action:  
     New Section  
     New Section  
     New Section  
     New Section

- 4) Statutory Authority: Implementing and authorized by the Intergovernmental Missing Child Recovery Act of 1984 (Ill. Rev. Stat. 1987, ch. 23, par. 2251, et seq.) and Section 55a of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 55a).

- 5) Effective Date of Rules: December 13, 1988

- 6) Does this rulemaking contain an automatic repeal date? No.

- 7) Does this rulemaking contain incorporations by reference? No.

- 8) Date filed in Agency's Principal Office: November 16, 1988

- 9) Notice of proposal published in Illinois Register:

June 3, 1988, 12 Ill. Reg. 9420

- 10) Has JCAR issued a Statement of Objections to these rules? Yes.

A) Statement of Objection: September 30, 1988, 12 Ill. Reg. 15760

B) Agency Response: December 23, 1988, 12 Ill. Reg. 22257

C) Date Agency Response submitted for Approval to JCAR: October 13, 1988

- 11) Differences between proposal and final version:

The statutory references in the authority note and the text have been updated and corrected to reflect the 1987 edition of the Illinois Revised Statutes.

In Section 1291.20, "par. 2251, et seq." has been amended to read "par. 2252." and "Section 2" has been inserted after "meanings set forth in."

In Section 1291.30 the last sentence has been deleted.

## DEPARTMENT OF STATE POLICE

## NOTICE OF ADOPTED RULES

In Section 1291.40, the words "shall be programmed" have been modified to read "has been programmed."

Ill. Rev. Stat. 1987, ch. 127, par. 55a is cited as the statutory authority for this rulemaking.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will this rule replace an emergency rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of Rules: The Intergovernmental Missing Child Recovery Act of 1984 requires certain information about missing persons to be reported to the Law Enforcement Agencies Data System (LEADS) and directed to the personnel of the I-SEARCH program. These rules describe the procedures to satisfy that requirement.

16) Information and questions regarding this adopted rule shall be directed to:

Mr. James W. Redlich  
Legal Advisor  
Illinois State Police  
201 Armory Building  
Springfield, Illinois 62706  
217 - 782-7658

The full text of the Adopted Rules begins on the next page:

## DEPARTMENT OF STATE POLICE

## NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT  
CHAPTER II: DEPARTMENT OF STATE POLICE

## PART 1291

## MISSING PERSON NOTIFICATION

## SUBPART A: PROMULGATION

Section  
1291.10 Purpose  
1291.20 Definitions

## SUBPART B: OPERATIONS

1291.30 Requirements  
1291.40 Procedures

AUTHORITY: Implementing and authorized by the Intergovernmental Missing Child Recovery Act of 1984 (Ill. Rev. Stat. 1987, ch. 23, par. 2251, et seq.) and Section 55a of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 55a).

SOURCE: Adopted at 12 Ill. Reg. 22240, effective December 13, 1988.

## SUBPART A: PROMULGATION

## Section 1291.10 Purpose

The purpose of this Part is to define the means, manner, and form of missing person reports entered on the Law Enforcement Agencies Data System.

## Section 1291.20 Definitions

Unless specified otherwise, all terms shall have the meanings set forth in Section 2 of the Intergovernmental Missing Child Recovery Act of 1984 (Ill. Rev. Stat. 1987, ch. 23, par. 2252).

## SUBPART B: OPERATIONS

## Section 1291.30 Requirements

The minimum level of data required to make an entry of a missing person into the Law Enforcement Agencies Data System shall be the missing person's name, sex, and date of birth.

## Section 1291.40 Procedures



## DEPARTMENT OF STATE POLICE

## NOTICE OF ADOPTED RULES

Contact with Illinois State Enforcement Agencies to Recover Children (I-SEARCH) program personnel shall be accomplished by entering the original missing person record into the Law Enforcement Agencies Data System. The Law Enforcement Agencies Data System has been programmed by the Department of State Police to automatically direct the information to the designated I-SEARCH program personnel.

## DEPARTMENT OF CONSERVATION

## NOTICE OF EMERGENCY AMENDMENTS

- 1) THE HEADING OF THE PART: Duck, Goose and Coot Hunting
- 2) CODE CITATION: 17 Ill. Adm. Code 590
- 3) SECTION NUMBERS  
590.10  
EMERGENCY ACTION  
Amendments
- 4) STATUTORY AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code (Ill. Rev. Stat. 1987, ch. 61, pars. 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 3.5, 3.6, 3.7, 3.8, and 3.10), and Migratory Bird Hunting (50 CFR 20, effective September 29, 1987).
- 5) EFFECTIVE DATE OF AMENDMENTS: December 7, 1988
- 6) IF THIS EMERGENCY AMENDMENT IS TO EXPIRE BEFORE THE END OF THE 150-DAY PERIOD, PLEASE SPECIFY THE DATE ON WHICH IT IS TO EXPIRE:  
These emergency amendments will remain in effect for the 150-day period.
- 7) DATE FILED IN AGENCY'S PRINCIPAL OFFICE: December 7, 1988
- 8) REASON FOR EMERGENCY These emergency amendments have been promulgated to protect the public interest, safety and welfare.
- 9) A COMPLETE DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED: The reason for the emergency is: Goose pits or blinds have been placed on small parcels of non-residential land, crowding goose hunters close together. Crowding creates conflict and stress, lessening the enjoyment of the hunt and increasing the dangers to the public due to stress-related responses. Because of the requirements of Section 2.33(u) of the Wildlife Code (Ill. Rev. Stat. 1987, ch. 61, par. 2.33), land upon which people reside does not create these problems.
- 10) ARE THERE ANY PROPOSED AMENDMENTS TO THIS PART PENDING?  
Emergency amendments to Sections 590.10, 590.40 and 590.60 were published at 12 Ill. Reg. 16233, October 7, 1988. These emergency amendments are not affected by the amendments listed above.
- 11) STATEMENT OF STATEWIDE POLICY OBJECTIVES (if applicable): This rule has no impact on local governments.
- 12) INFORMATION AND QUESTIONS REGARDING THESE AMENDMENTS SHALL BE DIRECTED TO:

## DEPARTMENT OF CONSERVATION

## NOTICE OF EMERGENCY AMENDMENTS

Jack Price  
Lincoln Tower Plaza  
524 S. Second Street  
Springfield, Illinois 62701-1787

## DEPARTMENT OF CONSERVATION

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF CONSERVATION  
SUBCHAPTER b: FISH AND WILDLIFE

## PART 590

## DUCK, GOOSE AND COOT HUNTING

THE FULL TEXT OF THE EMERGENCY AMENDMENTS BEGINS ON THE NEXT PAGE:

## Section

## 590.10 Statewide Regulations

## EMERGENCY

590.20 Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting  
590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites.

590.40 Check Station Department Sites Only - Duck, Goose and Coot Hunting  
590.50 Non-Check Station Department Sites Only - Duck, Goose and Coot Hunting  
590.60 Various Other Department Sites - Duck, Goose and Coot Hunting

## EXHIBIT A The Non-Toxic Shot Zones of Illinois

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13 2.1, 2.2, 2.18, 2.19, 2.20, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code (Ill. Rev. Stat. 1987, ch. 61, pars. 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10), and Migratory Bird Hunting (50 CFR 20, effective September 29, 1987).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; peremptory amendments at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendments at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 16588, effective September 22, 1986; emergency amendments at 10 Ill. Reg. 17773, effective September 26, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency amendments at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendments at 12 Ill. Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency amendments at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days.

AGENCY NOTE: The text of 590.10 which appears below does not include the emergency amendments adopted at 12 Ill. Reg. 16233, effective September 23, 1988. The copy filed in the Administrative Code Division reflects both the previous emergency amendments and this emergency amendment.

## Section 590.10 Statewide Regulations

## EMERGENCY



## ILLINOIS REGISTER

## DEPARTMENT OF CONSERVATION

## NOTICE OF EMERGENCY AMENDMENTS

- a) Pursuant to Section 2.18 of the Wildlife Code (Ill. Rev. Stat. 1987, ch. 61, par. 2.18), it shall be unlawful to take, possess, transport, or use migratory waterfowl except during such period of time and in such manner and numbers as may be provided in the Federal "Migratory Bird Treaty Act" (16 U.S.C. 703-711), the "Migratory Bird Hunting Stamp Act" (16 U.S.C. 1718 et seq.), and annual "Rules and Regulations for Migratory Bird Hunting" (50 CFR 20, effective September 29, 1987) (collectively referred to in this Part as federal regulations), (no incorporation in this Part includes later amendments or editions) or contrary to any State regulations made in the Wildlife Code.
- b) The regulations in Section 2.33 of the Wildlife Code (Ill. Rev. Stat. 1987, ch. 61, par. 2.33) on illegal devices shall apply to this rule, unless federal regulations are more restrictive.
- c) Duck, goose and coot regulations are in accordance with Federal Regulations (50 CFR 20, effective September 29, 1987) unless the regulations in this rule are more restrictive.
- d) It shall be unlawful while attempting to take migratory waterfowl to have in possession any shotgun shells prohibited by federal regulations. The only shot approved as non-toxic by the U.S. Fish and Wildlife Service (50 CFR 20) is steel shot, and copper-plated or nickel-plated steel shot for which the plating represents less than 1% of the shot's weight. Lead shot plated with copper, nickel, or other material does not qualify. Muzzleloading shotguns are exempt from non-toxic shot regulations for the 1988-89 season. Sites covered by these regulations are as stated in the federal regulations or they are listed under Site Specific Regulations. Only non-toxic shot may be used for hunting waterfowl in the following non-toxic shot zones (see EXHIBIT A):

- 1) Mississippi River and adjacent areas in the following counties bordered by the roads and/or lines indicated below:
  - A) All of Alexander, Calhoun, Carroll, Henderson, Jackson, Jersey and Union Counties.
  - B) Adams County: IL-96 (Lima), County Highway (Hwy) 41, County Hwy-7, County Hwy-8, and Lock and Dam 20. The Mark Twain National Wildlife Refuge, Bear Creek Unit is also a nontoxic shot zone.
  - C) Hancock County: (Dallas City), IL-9/96, IL-96/US 136, and IL-96.
  - D) Henry County: I-80 and I-74/280.
  - E) Jo Daviess County: IL-35 (East Dubuque), US-20, IL-84/US-20, and IL-84.

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## DEPARTMENT OF CONSERVATION

## NOTICE OF EMERGENCY AMENDMENTS

- F) Mercer County: Railroad Bridge (Keithsburg), County Hwy-16, and County Hwy-25.
  - G) Pike County: US-36 (Shepherd), IL-96/US-36, and IL-96. (Also see Illinois River Section 590.10(d)(2) below)
  - H) Rock Island County: IL-5, IL-5/92, and I-80; I-74/280, I-280, and IL-92 to Iowa state line.
  - I) Whiteside County: IL-84 (north), IL-136/Fulton Road, County Hwy-21/Frog Pond Road, Garden Plain Road; County Hwy-21/Sand Road, and IL-5.
- 2) Illinois River and adjacent areas in the following counties bordered by the roads and/or lines indicated below:
- A) All of Calhoun, Cass, Fulton, Jersey, Marshall, Mason, Putnam, and Woodford Counties.
  - B) Brown County: County Hwy-3/Federal Aid Secondary Route (FAS) 582, FAS-582, County Hwy-12, and IL-99.
  - C) Bureau County: IL-89 (Spring Valley), IL-6/89, IL-29, and IL-26/29, and IL-29.
  - D) Greene County: Kampsville Ferry Route, IL-108, and Federal Aid Primary Route (FAP) 155 (south).
  - E) Morgan County: IL-104 (Meredosia) and IL-100/US-67.
  - F) Peoria County: IL-29, IL-29/US-24, and IL-9/US-24.
  - G) Pike County: IL-104 (Meredosia) and IL-99. (Also see Mississippi River Section 590.10(d)(1) above).
  - H) Schuyler County: IL-100 (Bluff City) IL-103, and County Hwy-9.
  - I) Tazewell County: IL-26, IL-116, IL-116/US-150, IL-8/116, IL-29, IL-9/29, IL-29, FAS-461, and County Hwy-16.
- 3) Southern Illinois Quota Zone
- All of Alexander, Jackson, Union and Williamson Counties.

## DEPARTMENT OF CONSERVATION

## NOTICE OF EMERGENCY AMENDMENTS

## 4) Rend Lake Goose Quota Zone

All of Jefferson County and all of Rend Lake plus all adjacent areas managed by U.S. Army Corps of Engineers or Illinois Department of Conservation.

## 5) Other Areas

All of Bond, Clinton, Fayette, Kane, Lake and McHenry Counties.

## e) Emergency Closure

The Department of Conservation (Department or DOC) will close the Canada goose season giving 48 hours notice when quotas established by federal regulations are reached or when harvest in any area is excessive due to extreme weather conditions.

## f) Closed Areas and Refuges

## 1) Ducks - Specific habitats, geographical areas, or political land units shall be closed to hunting of specified species of ducks in compliance with federal regulations.

## 2) Geese and Refuges

A) Additional geographical areas or political land units shall be closed to hunting of specified species of geese in compliance with federal regulations.

B) Portions of the following areas are designated as waterfowl refuges and the refuge boundaries are posted or identified on each area posting:

i) Horseshoe Lake Conservation Area - Alexander County (in the refuge no motors will be allowed from October 15 through December 31 and trolling motors will only be used from January 1 to March 1)

ii) Rend Lake and Rend Lake Wildlife Management Area

iii) Union County Conservation Area (all fishing and boat traffic is prohibited from October 15 through March 1)

## g) Migratory Waterfowl Hunting Area Permits (Commercial and Non-Commercial)

1) The holder of a permit shall forward within one week after the close of the season or at an earlier time as requested by the

## DEPARTMENT OF CONSERVATION

## NOTICE OF EMERGENCY AMENDMENTS

Department, a report upon forms furnished by the Department providing information on the hunting season.

2) Section 590.10 (g) of this Part shall be in accordance with Section 3.7 of the Wildlife Code (Ill. Rev. Stat. 1987, ch. 61, par. 3.7).

h) Teal Hunting Regulations are located in 17 Ill. Adm. Code 740.

i) When public duck blinds on State managed sites are flooded to the point that they are no longer usable, but the water level is not too high or rough to be a threat to public safety, the Department, by public announcement and posting, may permit waterfowl hunting anywhere on the area except in designated refuge areas. Any permits issued for the blinds are no longer valid and no fee to hunt the area will be charged.

## j) Waterfowl Hunting Zones:

1) Northern Zone - That portion of the State north of a line running east from the Iowa border along Illinois Route 92 to U.S. Interstate 280, east along U.S. Interstate 280 to U.S. Interstate 80, then east along U.S. Interstate 80 to the Indiana border.

2) Central Zone - That portion of the State south of the northern zone boundary to the Modoc Ferry Landing on the Mississippi River and east along the Modoc Ferry Road to Randolph County Highway 12 to Illinois Route 3, then north to Illinois Route 159, then north to Illinois Route 161, then east to Illinois Route 4, then north to U.S. Interstate 70, then east along U.S. Interstate 70 to the Indiana border.

3) Southern Zone - From the southern boundary of the Central Zone south to the remainder of the State.

4) Tri-county Goose Zone - Knox County and the following townships: Fulton County - Buckheart, Canton; Cass - Deerfield, Fairview, Farmington, Joshua, Orion, Putnam, and that portion of Banner Township bounded on the north by Illinois Route 9 and on the east by U.S. Route 24; Henry County - Alba, Annawan, Atkinson, Cornwall.

5) Rend Lake Canada Goose Quota Zone - all lands and waters in Franklin and Jefferson Counties.

6) Northeastern Illinois Canada Goose Zone - All lands and waters in the counties of Cook, DuPage, Grundy, Kankakee, Kane, Kendall, Lake, McHenry and Will.

7) Southern Illinois Quota Zone (Alexander, Union, Williamson, and Jackson Counties).



## ILLINOIS REGISTER

## DEPARTMENT OF CONSERVATION

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k) No person during the open season shall take or attempt to take wild geese in the Rend Lake Canada Goose Quota Zone except between one-half hour before sunrise and the hour of 3:00 p.m.

(l) No person shall take or attempt to take wild geese in the Southern Illinois Quota Zone from a blind or pit located less than 100 yards from the boundary of the property on which the blind or pit is located unless the minimum yardage requirements cannot be met, in which case one pit or blind is permitted on property where a residence has been established.

(Source: Emergency amendments at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days)

## ILLINOIS REGISTER

## ILLINOIS SPORTS FACILITIES AUTHORITY

## NOTICE OF EMERGENCY RULES

- 1) The Heading of the Part: Procurement Procedures
- 2) Code Citation: 44 Ill. Adm. Code 1305
- 3) Section Number:

1305.10	Emergency Action:
1305.20	New Section
1305.30	New Section
1305.40	New Section
1305.50	New Section
- 4) Statutory Authority: P.A. 85-1034, effective July 7, 1988
- 5) Effective date of Rule: November 30, 1988
- 6) If This Emergency rule is to Expire before the End of the 150 Day Period, Please Specify the Date on which it will Expire: N/A.
- 7) Date Filed in Agency's Principal Office: November 4, 1988
- 8) Reason for Emergency: Pursuant to Section 8 of the Illinois Sports Facilities Authority Act, this rule is adopted as an emergency rule in accordance with Section 5.02 of the Illinois Administrative Procedure Act. As such this rule is deemed to be an emergency and necessary for the public interest, safety, and welfare.
- 9) A Complete Description of the Subjects and Issues involved: The Illinois Sports Facilities Authority is authorized to construct the new White Sox stadium. This rule provides for the procurement of goods, services and construction by the Authority.
- 10) Are There any Proposed Amendments to this Part Pending?  
No
- 11) Statement of Statewide Policy Objectives: N/A
- 12) Information and Questions regarding this matter should be directed to:

Timothy D. Romani  
Deputy Director ISFA  
One First National Plaza, Suite 2785  
Chicago, IL 60603  
(312) 793-1991

The full text of the emergency rules begins on the next page.

## ILLINOIS SPORTS FACILITIES AUTHORITY

## NOTICE OF EMERGENCY RULES

TITLE 44: GOVERNMENT CONTRACTS  
 PROCUREMENT AND PROPERTY MANAGEMENT  
 SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
 CHAPTER XIX: ILLINOIS SPORTS FACILITIES AUTHORITY

PART 1305  
 PROCUREMENT PROCEDURES

## Section

1305.10 Purpose

EMERGENCY

1305.20 Competitive Sealed Bids

EMERGENCY

1305.30 Procedures for Competitive Sealed Bids

EMERGENCY

1305.40 Competitive Sealed Proposals or Negotiated Procurement

EMERGENCY

1305.50 Contracts under \$50,000

EMERGENCY

AUTHORITY: Implementing and Authorized by Illinois Sports  
 Facilities Authority (P.A. 85-1034, Effective July 7, 1988)

SOURCE: Emergency rule adopted at 12 Ill. Reg. 22252,  
 effective November 30, 1988, for maximum of 150 days.

Section 1305.10 Purpose

EMERGENCY

The purpose of these rules is to establish procedures for the  
 procurement of goods, services and construction by the Authority.

Section 1305.20 Competitive Sealed Bids

EMERGENCY

Unless otherwise specifically authorized by the Board as provided  
 in Section Four, all contracts for the purchase of goods,  
 services or construction shall be awarded by competitive sealed  
 bidding, except for the following:

## ILLINOIS SPORTS FACILITIES AUTHORITY

## NOTICE OF EMERGENCY RULES

- a) a purchase of goods, services or construction which are economically procurable from only one source;
- b) a purchase of services requiring professional, technical or artistic skills, including but not limited to, architectural, accounting, engineering, surveying, financial or legal services;
- c) a purchase of services of employees of the Authority;
- d) a purchase of data processing and telecommunication equipment and software or services related thereto;
- e) a purchase involving an expenditure not to exceed \$50,000;
- f) a purchase of maintenance and servicing or repair of goods from the manufacturer of the goods or its authorized agent;
- g) a purchase when an emergency involving the public health, safety or welfare requires an immediate expenditure of funds by the Authority; or
- h) a purchase from another governmental entity

1305.30 Procedures for Competitive Sealed Bids  
 EMERGENCY

The following procedures shall be used for contracts requiring  
 Competitive Sealed Bids:

- a) An Invitation or Request for Bids shall be prepared and issued which shall describe the goods, services or construction to be acquired, and the terms and conditions applicable to the acquisition.
- b) Notice of the Invitation for Bids shall be given by publication in a newspaper published in metropolitan Chicago, by mailing to contractors pre-qualified by the Authority, by mailing to contractors who have requested notice or by any other means which the Executive Director believes will result in more than one bid on the contract.



## ILLINOIS SPORTS FACILITIES AUTHORITY

## NOTICE OF EMERGENCY RULES

- c) Bids shall be opened in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of cash bid, together with the name of each bidder shall be recorded. This record shall be open to public inspection.
- d) Bids shall be evaluated by the Executive Director or his designee based on the criteria set forth in the Invitation for Bids.
- e) The contract shall be awarded to the lowest responsible and responsive bidder by the Executive Director, except that contracts requiring expenditures by the Authority in excess of \$50,000 shall require the approval of the Board.
- f) The Authority may reject any and all bids. In the event that all bids for a project exceed funds available for the project, the Board may authorize the Executive Director to negotiate an adjustment of the bid requirement and the bid price with the lowest responsive and responsible bidder in order to bring the bid within the amount of available funds in situations where time or economic considerations preclude resolicitation of bids.

1305.40 Competitive Sealed Proposals or Negotiated Procurement  
EMERGENCY

In a procurement where competitive sealed bids are found by the Board not to be advantageous to the Authority or practicable, the Board may authorize a procurement pursuant to competitive sealed proposals or negotiation or a combination thereof.

1305.50 Contracts Under \$50,000  
EMERGENCY

The Executive Director is authorized to enter into any contract for goods, services or construction which does not include an expenditure of Authority funds in excess of \$50,000. The Executive Director shall report to the Board with respect to any contract which he enters into under this section.

## DEPARTMENT OF REVENUE

NOTICE OF REFUSAL TO MEET THE OBJECTION  
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Numbers: 140.145  
Action: Refusal
- 4) Date Notice of Emergency Amendments Published in Register:  
September 9, 1988, 12 Ill. Reg. 14419  
(issue date)
- 5) Date JCAR Statement of Objection published in the Register:  
October 28, 1988, 12 Ill. Reg. 17453  
(issue date)
- 6) Summary of Action Taken by the Agency: The Department amended the Retailers' Occupation Tax Emergency Rules to address the objection of the Joint Committee.

## DEPARTMENT OF STATE POLICE

NOTICE OF REFUSAL  
TO MEET THE OBJECTION OF  
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) The Heading of the Part: Missing Person Notification2) Code Citation: 20 Ill. Adm. Code 12913) Section Numbers:

1291.10  
1291.20  
1291.30  
1291.40

Action:  
Refusal  
Refusal  
Refusal  
Refusal

4) Date Notice of Proposed Rules Published in the Register:

June 3, 1988 12 Ill. Reg. 9420

5) Date JCAR Statement of Objection Published in the Register:

September 30, 1988 12 Ill. Reg. 15760

6) Summary of Action Taken by the Agency:

The Statement of Objection, filed with respect to the above-referenced rule, concerns only the time of filing and not the content of the rule itself. Since neither modification nor withdrawal would serve in any way to address the Joint Committee's Objection, the agency respectfully refuses to modify or withdraw. The proposed rule, incorporating the previously agreed modifications, shall be adopted.

It should be noted, however, that any delay in proposing this relatively trivial procedural rule created no hardship for the affected parties. No complaints were received, no sanctions imposed, and no implementation problems resulted due to the timing of this rulemaking.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 5, 1988 through December 9, 1988 and have been scheduled for review by the Committee at its January 9, 1989 meeting. Other items not contained in this published list may also be considered by the Joint Committee at its scheduled January meeting. Members of the public wishing to express their views with respect to a proposed rule should submit written comments to the Joint Committee at the following address: Joint Committee on Administrative Rules, 509 South Sixth Street, Room 500, Springfield, IL 62701.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>Scheduled for Consideration by JCAR</u>
1/19/89	Department of Insurance, Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions (50 Ill. Adm. Code 2011)	8/19/88 12 Ill. Reg. 13558	January 9, 1989
1/19/89	Department of Insurance, Foreign and Alien Insurer Annual Audited Financial Reports (50 Ill. Adm. Code 601)	7/22/88 12 Ill. Reg. 11985	January 9, 1989
1/20/89	Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)	10/7/88 12 Ill. Reg. 15947	January 9, 1989
1/23/89	Illinois Sports Facilities Authority, Pre-Qualification of General Contractors (44 Ill. Adm. Code 1300)	9/23/88 12 Ill. Reg. 15048	January 9, 1989
1/23/89	Department of State Police, Certification and Training of Electronic Criminal Surveillance (20 Ill. Adm. Code 1295)	10/21/88 12 Ill. Reg. 17064	January 9, 1989



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSECOND NOTICES RECEIVED  
(page 2)PROCLAMATION  
88-568

Critical Care Nurse Week (1989)

Second Notice Expires	Agency and Rule	Start of First Notice	Scheduled for Consideration by JC&R
1/23/89	Illinois Commerce Commission, Reports of Accidents or Incidents by Persons Engaged in the Transportation of Gas, or Who Own or Operate Gas Pipeline Facilities (83 Ill. Adm. Code 595)	10/14/88 12 Ill. Reg. 16309	January 9, 1989
1/23/89	Department of Rehabilitation Services, Training Services (89 Ill. Adm. Code 592)	1/22/88 12 Ill. Reg. 2095	January 9, 1989
1/23/89	Department of Rehabilitation Services, Medical, Psychological, and Related Services (89 Ill. Adm. Code 587)	1/29/88 12 Ill. Reg. 2192	January 9, 1989
1/23/89	Department of Rehabilitation Services, Tools, Equipment, Supplies and Initial Stock (89 Ill. Adm. Code 597)	1/29/88 12 Ill. Reg. 2197	January 9, 1989
1/23/89	Department of Public Health, Salvage Warehouses and Stores for Foods, Alcoholic Liquors, Drugs, Medical Devices and Cosmetics (77 Ill. Adm. Code 725)	4/22/88 12 Ill. Reg. 7272	January 9, 1989
1/23/89	Department of Public Health, Salvage Warehouses and Stores for Foods, Alcoholic Liquors, Drugs and Cosmetics; Repeal of (77 Ill. Adm. Code 725)	4/22/88 12 Ill. Reg. 7265	January 9, 1989
1/23/89	Pollution Control Board, Effluent Standards (35 Ill. Adm. Code 304)	7/8/88 12 Ill. Reg. 11397	January 9, 1989
1/23/89	Illinois State Scholarship Commission, Guaranteed Loan Programs (23 Ill. Adm. Code 1720)	9/23/88 12 Ill. Reg. 15047	January 9, 1989

WHEREAS, critical care nurses are registered professional nurses who give critically ill patients optimal care through their individual professional accountability, thorough knowledge of the interrelatedness of body systems, and appreciation of the collaborative role of members of the health care team; and

WHEREAS, the American Association of Critical Care Nurses (AACN) was established in 1969 to assist members of this profession in keeping abreast with the technical advancement characteristic of the critical care environment. AACN currently has over 59,600 members nationwide, including over 3,100 in Illinois; and

WHEREAS, in addition to basic preparation, a critical care nurse must have advanced knowledge of psychosocial, physiological and therapeutic components specific to the care and the critically ill. The CCN Certification, obtained only after passing a comprehensive examination and acquiring professional experience, is the national recognition of professional proficiency in critical care nursing;

THEREFORE, I, James R. Thompson, Governor of the State of Illinois, proclaim March 5-11, 1989, as CRITICAL CARE NURSE WEEK in Illinois.



PROCLAMATION  
88-569

Volvo Tennis/Chicago Week (1989)

PROCLAMATION  
88-570

Asian American Unity Day

WHEREAS, the Volvo Tennis/Chicago men's professional tournament will feature 24 international stars in competition for the championship; and

WHEREAS, the Volvo Tennis/Chicago tournament will take place for its fifth consecutive year; and

WHEREAS, a tennis event of this magnitude enhances Illinois' reputation as a center of great sporting events;

THEREFORE, I, James R. Thompson, Governor of the State of Illinois, proclaim February 7-12, 1989, as VOLVO TENNIS/CHICAGO WEEK in Illinois.

WHEREAS, the State of Illinois is home to over 350,000 Asian Americans who have brought with them the values and traditions of their homelands; and

WHEREAS, Asian Americans base success upon a foundation of hard work, close family ties, a devotion to their children, and an aspiration and respect for learning; and

WHEREAS, Asian Americans have greatly influenced the culture of all citizens in the State of Illinois; and

WHEREAS, Asian Americans take an active role in the civic, educational, cultural and economical development of our state, and have contributed tremendously to our nation's progress in the fields of government, science & technology, education, art, commerce and medicine; and

WHEREAS, the State of Illinois commends leaders of the Asian American community who have made the 6th Annual Asian American Coalition Banquet a success. This event is truly an indication of cohesive and dynamic leadership and is the result of many years of networking among dedicated leaders;

THEREFORE, I, James R. Thompson, Governor of the State of Illinois, proclaim February 11, 1989, as ASIAN AMERICAN UNITY DAY in Illinois. I urge all citizens to acknowledge the contributions of all Asian Americans in our state.

Issued December 5, 1988. Filed December 12, 1988.

Issued December 6, 1988. Filed December 12, 1988.



PROCLAMATION  
88-571

Eye Health Care Month (1989)

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WHEREAS, the precious gift of eyesight is recognized as the most valuable of the senses; and

WHEREAS, the National Society to Prevent Blindness has declared that half of all blindness can be prevented; and

WHEREAS, such unnecessary blindness can be prevented when early attention by medical doctors is sought and obtained, or when safety devices are worn to protect the eyes, or when state laws mandate the appropriate early referral of potentially blind persons; and

WHEREAS, the medical community in this state includes many qualified eye physicians and surgeons plus outstanding medical facilities for proper care and treatment of those threatened by blindness; and

WHEREAS, citizens of this state should become aware of the importance of eye health care and seek direct help from medical eye doctors when eye conditions that lead to blindness are experienced;

THEREFORE, I, James R. Thompson, Governor of the State of Illinois, proclaim January 1989, as EYE HEALTH CARE MONTH in Illinois.